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ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

SEPTEMBER 25 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. PELL (for Mr. KENNEDY), from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 2724]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2724) to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. Findings

The Committee finds that these agencies have made substantial contributions to the nation's cultural and economic progress.

The National Endowment for the Arts, which celebrates its 25th anniversary in September 1990, has provided approximately 85,000 grants to nonprofit institutions, organizations and individuals in a variety of arts-related disciplines, including music, dance, design arts, folk arts, literature, media arts, museums, theater, visual arts, and arts in education.

The National Endowment for the Humanities, which also marks its 25th anniversary in September 1990, is dedicated to the promotion and support of the humanities through the disciplines of history, philosophy, language, linguistics, literature, archeology, jurisprudence, comparative religions, ethics, and the theory and criticism of the arts. Since its inception, NEH has provided 41,000 grants to colleges, universities, historical societies and museums in the program areas of education, fellowships, seminars, research, state and general programs.

The Institute of Museum Services, since its establishment in 1976 has provided over 8,000 grants for all types of museums—assisting them in their educational role, helping to conserve our rich cultural heritage, and lessening the financial burden borne by museums as they serve a growing audience.

In addition, these agencies have acted as effective catalysts for growing state, local and private support. In 1965, when the NEA was first established, only five states had arts councils. Today, all 50 states and six special jurisdictions have arts councils. Between 1966 and 1990, the NEA's States Program awarded $355.5 million in grants. State governments appropriated more than $2.4 billion to match these grants—making the ratio of state to federal support nearly seven to one. Likewise, federal NEH funds have generated $1.3 billion in private matching funds.

In reviewing the grants made by these agencies, the Committee has found a wide range of successful grants that present strong justification for this reauthorization bill. The Committee believes that these successful grants represent the vast majority of the work supported by the two Endowments and the Institute. At the same

time, the Committee acknowledges that some grants made by the NEA have proven to be controversial and have raised the issue of accountability for public funds.

The reauthorization bill developed by the Committee addresses both of these findings. It maintains a federal commitment to the enhancement of our nation's cultural life through continuation of funding for the NEA, the NEH, and IMS through fiscal year 1995. In addition, it strengthens accountability for NEA funds through the tightening of grant making procedures and the imposition of sanctions for works that violate obscenity or child pornograpy laws.

The Committee finds that there is general support for federal funding of the arts, humanities and museums. Recent polls indicate that approximately 70 percent of the American public support federal funding for the arts and humanities through agencies such as the NEA, NEH, and IMS. The federal commitment to the arts and humanities has always been a relatively small amount of money, currently representing less than one percent of the U.S. federal budget. Nevertheless, this support underscores the importance of the arts and humanities in enriching and expanding the horizons of our nation and plays a critical role in generating broader support for cultural activities.

II. Statement of Purpose

It is the purpose of this bill to modify the existing National Foundation on the Arts and the Humanities Act (NFAH) to assure greater accountability in the grant-making process and to take into consideration the changing demographics and cultural needs of our population. Authorization of the NFAH programs is extended through fiscal year 1995.

While the Committee believes that the existing programs have tried to adhere to the original intent of the legislation, hearings held by the Subcommittee on Education, Arts and Humanities in March and April 1990 pinpointed problems that are addressed by the changes in this legislation. These amendments, in the form of S. 2724, make necessary changes to strengthen the panel process, to clarify the National Endowment for the Art's role regarding obscenity and child pornography, to expand arts education through a new initiative and to establish a new program of regional arts festivals. In addition, these amendments make a number of technical and clarifying changes in the NFAH.

III. Legislative History

The National Foundation on the Arts and the Humanities was established in 1965 by Public Law 89-209. The original Act was preceded by the National Arts and Cultural Development Act of 1964 (P.L. 88-579), which established a National Council on the Arts. When the National Foundation on the Arts and the Humanities Act became law in 1965, the National Council on the Arts was transferred to the National Endowment for the Arts. The National Foundation on the Arts and the Humanities currently is composed of the National Endowment for the Arts (and its National Council on the Arts), the National Endowment for the Humanities (and its National Council on the Humanities), the Federal Council on the

Arts and Humanities, and the Institute of Museum Services (and its National Museum Services Board).

The National Foundation on the Arts and Humanities Act was subsequently amended in 1967 by Public Law 90-83; in 1968 by Public Law 90-348; in 1970 by Public Law 91-346; in 1973 by Public Law 93-133; in 1976 by Public Law 94-462 and Public Law 94-555; in 1980 by Public Law 96-496; in 1984 by Public Law 98-306; in 1985 by Public Law 99-194; in 1986 by Public Law 99-362 and in 1989 by Public Law 101-121. Major reauthorizations occurred in 1968, 1970, 1973, 1976, 1980 and 1985.

The Museum Services Act was first enacted as Title II of the Arts, Humanities and Cultural Affairs Act of 1976 (P.L. 94-462). The Act was subsequently amended in 1980 by Public Law 96-496; in 1984 by Public Law 98-306 and in 1985 by Public Law 99-194.

The Arts and Artifacts Indemnity Act, "an Act to provide indemnities for exhibitions of artistic and humanistic endeavors," was enacted in 1975 as Public Law 94-158 and amended by Public Law 99-194. The Federal Council on the Arts and Humanities was given authority to make indemnity agreements against loss or damage to art objects and artifacts.

IV. Committee Action and Votes in Committee

On June 12, 1990 Senator Pell, (on behalf of himself and Senators Kennedy, Metzenbaum, Dodd, Simon, Jeffords, Durenberger, Chafee, and Danforth) introduced S. 2724, the Arts, Humanities, and Museums Amendments of 1990, a bill to reauthorize the National Foundation on the Arts and the Humanities Act of 1965 and to extend and improve arts and humanities programs, museum services and arts and artifacts indemnification.

A series of four hearings chaired by Senator Pell were held in Washington, D.C. by the Subcommittee on Education, Arts and Humanities. Testimony was received from 33 witnesses representing national, state, local and private viewpoints. The hearing record remained open for additional testimony.

The first hearing on March 23, 1990 focused on the importance of the General Operating Support Program and the Conservation Grant Program at the Institute of Museum Services. Witnesses included the Director of the Institute, Daphne Wood Murray, and the Chairman of the Museum Services Board, Willard L. Boyd, as well as several museum professionals from around the country.

The second hearing on March 29, 1990 was concerned with the reauthorization of the National Endowment for the Arts. Witnesses testifying included the Chairman of the NEA, John Frohnmayer; Harold Prince, theater producer and director; Peter Goldmark, President of the Rockefeller Foundation; Garrison Keillor, author and humorist; as well as arts professionals representing art museums and arts organizations from around the country.

The third hearing on April 5, 1990 focused on the reauthorization of the National Endowment for the Humanities. The Chairman of the NEH, Lynne V. Cheney, testified as well as Vartan Gregorian, President of Brown University, and representatives of other universities, state humanities councils and museums.

The final hearing on April 27, 1990 addressed the questions of censorship, First Amendment rights, accountability, and constitutionality of content restrictions as they related to the NEA's grant process. Testifying were Maestro Mstislav Rostropovich, Artistic Director of the National Symphony Orchestra; the Honorable John Buchanan, Jr., Chairman of People for the American Way; Mrs. Phyllis Schlafly, President of the Eagle Forum; several constitutional scholars, representatives of state and local arts agencies and representatives of arts in education organizations.

On June 13, 1990 the Subcommittee reported the bill unanimously to the full Committee on Labor and Human Resources without amendment.

The Committee on Labor and Human Resources met on September 12, 1990 to consider S. 2724. One amendment was offered by Senator Coats to establish criteria for materials funded by grants administered by the National Endowment for the Arts, the National Council on the Arts, the National Endowment for the Humanities and the National Council on the Humanities. Under the amendment, a determination would be made in advance whether or not a grant application involves obscenity, child pornography, or attacks on primarily historically religious tenets, traditions, symbols or figures. The amendment was defeated by a roll call vote of 14 nays to 2 yeas. The vote on the amendment was as follows:

YEAS	NAYS
Coats	Kennedy
Thurmond	Pell
	Metzenbaum
	Dodd
	Simon
	Harkin
	Adams
	Mikulski
	Bingaman
	Hatch
	Kassebaum
	Jeffords
	Durenberger
	Cochran

The Committee proceeded to accept an amendment in the nature of a substitute, offered by Senator Hatch for himself, Mr. Kennedy, Mr. Pell and Mrs. Kassebaum, by a roll call vote of 15 yeas to 1 nay. The vote was recorded as follows:

YEAS	NAYS
Kennedy	Coats
Pell	
Metzenbaum	
Dodd	
Simon	
Harkin	
Adams	
Mikulski	
Bingaman	

Hatch
Kassebaum
Jeffords
Thurmond
Durenberger
Cochran

The Committee then voted for final passage of the amendment in the nature of a substitute by a vote of 15 yeas to 1 nay. The vote was recorded as follows:

YEAS	NAYS
Kennedy	Coats
Pell	
Metzenbaum	
Dodd	
Simon	
Harkin	
Adams	
Mikulski	
Bingaman	
Hatch	
Kassebaum	
Jeffords	
Thurmond	
Durenberger	
Cochran	

V. National Endowment for the Arts

A. BACKGROUND

Each year the NEA funds thousands of projects and productions across the United States that encourage public knowledge, understanding and appreciation of the arts. The Endowment has expanded access to art of high quality in every state and has broadened acquaintance with the arts through support of community festivals, traditional musicians, crafts and inner city and rural arts centers. Nearly every citizen has the opportunity to participate in some form of the arts such as plays, concerts, dance and opera performances, museum exhibitions, media programs, poetry, fiction, folk arts and visual arts.

Endowment programs have made the arts accessible to children. For example, each year through the NEA's Arts in Education Program, over four million school children participate in classes led by artists in virtually every state. Young people are also served through grants which provide special performances for children and their families. Children also participate in the arts by visiting museums and community centers that have projects specifically designed for them.

The Endowment also benefits older Americans through workshops, classes, and festivals. Such intergenerational programs preserve skills in ethnic needlework, music, storytelling, quilting and many other traditional skills for future generations. In addition, access to the arts by older Americans is promoted through theater

and dance programs in which older citizens are performers. The Design Arts Program offers programs to senior citizens, as well.

Many different ethnic groups in America enjoy Endowment-sponsored projects and productions that reach, or reflect, the culture of minority, inner city, rural or tribal communities. In this regard, the Committee was pleased to learn that over 170 different cultures were represented among grantees of the NEA. The Endowment's attention to cultural diversity is to be commended.

The Committee notes that projects supported by the NEA are not limited to the large urban population centers. Special Endowment programs and initiatives are designed to reach all rural areas of the country, bringing the best in live performances to those who otherwise could not attend opera, symphony, theater, and dance. Through its media program and support for public television, the Endowment reaches virtually every household with high quality performing arts.

The Committee fully intends for the National Endowment for the Arts to continue to make the arts accessible to all of our citizens. Americans of all economic and racial backgrounds face the beginning of a new century. The Committee believes our nation should facilitate a continuing cultural legacy and a national commitment to our artistic heritage through the NEA.

B. ACCOUNTABILITY

The Committee deliberated extensively on the issue of the proper role of the federal government in funding the arts.

The Committee reviewed possible and appropriate additional statutory guidelines that would diminish, if not eliminate, the possibility of questionable grants in the future. However, it should be noted that the Committee also listened closely to the serious concerns of those in the arts community who believe it to be important that decisions on appropriate subject matter for federally supported grants in the arts be decided by the peer review system with the oversight of the National Endowment for the Arts.

There is a strong consensus in the Committee that there is a legitimate and vital role for the federal government in the arts. The Congress is free, although not required, to support the arts. The National Endowment for the Arts is a worthwhile and meritorious agency which has made significant contributions. This agency plays a small but crucial role in enhancing the cultural life of our nation, a role that should not be subverted to calls for its eradication.

Actor Theodore Bikel has cautioned that "in all other publicly funded enterprises we acknowledged an expected failure rate . . . but in the arts there can be none and, unless there is a 100% success, the funding becomes endangered."

Although the Committee cannot guarantee 100% success at the National Endowment for the Arts in the future, it believes that every effort must be made to assure accountability for tax dollars. The Committee feels that there is ample room for improvement and has proposed changes to bring about such improvement.

The approach taken by the Committee avoids the constitutional pitfalls that would be raised by the imposition of guidelines that

establish any prior restraint on grant awards. Professor Kathleen Sullivan of Harvard University School of Law, testified, "As applied in the First Amendment area, the unconstitutional conditions doctrine holds that government may not grant a benefit on the condition that the recipient forego constitutionally protected expression—even if government was free in the first place not to offer that benefit at all."

The Committee, therefore, strongly recommends a different approach to this problem, one which encompasses both procedural and substantive changes in grant-making policies and programs of the National Endowment for the Arts.

1. Obscenity and child pornography sanctions

The Committee amendment provides that work that is determined by a court to be obscene or in violation of child pornography laws, is not eligible for Endowment support. Therefore, if a work that was created or supported with Endowment funds was found in a criminal court decision, after final appeal, to be obscene or in violation of child pornography laws, then the funds provided by the Endowment must be repaid, and the defendant of defendants convicted in the case shall be debarred from receiving additional NEA funds for a period of not less than three years. The bill provides clear guidance on the respective liabilities of those receiving grants and establishes with certainty that no obscene work, which is, therefore, not protected by the First Amendment, will be funded with Endowment support.

The following explains these provisions in greater detail:

When are sanctions applied?

Sanctions shall be applied when NEA funds are used to create, produce or support a project or production that is found to be obscene or to violate child pornography laws in a criminal trial (and all appeals of the conviction are exhausted) in a state in which the project was produced or which was described in the grant application as a site for the project.

What are the sanctions?

Sanctions include repayment of the NEA funds that supported the work found to violate obscenity or child pornography laws. In addition, a defendant or defendants convicted in the trial will be debarred from receiving additional NEA funding for at least 3 years or until the funds are repaid—whichever is longer. Failure to repay the amount due would result in permanent debarment.

Who is responsible for repayment and how much must be repaid?

The initial obligation to repay funds is with the individual or organization that actually created or produced the project found to be obscene or in violation of child pornography laws. The amount to be repaid is that portion of the total NEA funds received by the individual or organization that were used to create or produce the project found to be obscene, provided that it is possible to separate the portion of the grant used for the work found to be obscene, or in violation of child pornography laws. If it is not possible to sepa-

rate out the portion of the total funds used for the work, the entire NEA grant must be repaid.

If the Chairperson of the NEA determines that the individual or organization that created or produced the project found to be obscene or in violation of child pornography laws is unable to or has not made repayment, and if such individual or organization did not receive its funds directly from the NEA, but was a subgrantee of another organization, agency or arts group or other entity that received funds directly from the NEA and passed funds on to such individual or organization, then such other organization, agency or arts group, or other entity is responsible for repaying the funds.

Repayment of funds by the individual or organization that created or produced the project found to be obscene must be made within 90 days of the exhaustion of final appeal of the conviction, unless such period is extended by the Chairperson of the NEA for up to two years. If an agency or arts group that subgranted funds to such individual or organization is required to repay funds, it must do so within 30 days of the original 90-day period.

Who is debarred from receiving further funds from NEA, and for how long?

Any individual or organization that received funds from the NEA, used them to create or produce the project found to be obscene, and was convicted in the criminal obscenity or child pornography trial, will be debarred from receiving further NEA funds for a period of not less than three years. If such individual or organization is required to repay funds as described above, then that individual or organization is debarred until it repays such funds. If an agency or arts group is required to repay funds, as described above, and does not make such repayment, it is debarred from receiving further funds until such funds are repaid.

Summary

The overall scheme of repayment and debarment is designed to assure that the person or entity which received NEA funds and used them in creating or producing the work found to be obscene or to violate child pornography laws must repay the funds used to create such work. If such person or entity does not make timely repayment of such funds, it is debarred from receiving further NEA funds until it does so. If the individual or organization actually making the obscene work does not repay the money, then an agency or arts group who received the funds from the NEA and passed them on to such individual or organization must repay the money. If it does not do so, it is debarred until it does so.

Any individual, organization, arts group or agency that used NEA funds to create a project or production that is found to be obscene or to violate child pornography laws, and is a defendant convicted at such obscenity or child pornography trial, is debarred for three years.

The Chairperson of the NEA is charged with promulgating procedures to ensure compliance with these sanctions.

Illustration

A State Arts Council receives money from the NEA as part of the state block grant. The Board then gives $100,000 of the NEA funds to a theater group for a performing arts series. Among the performances in the series is one in which an individual performer receives $10,000 from the theater group. A criminal action is brought against the performer, and a court convicts the performer of violating obscenity laws, and the conviction is upheld in the highest court of appeal, if so appealed.

Sanctions.—The performer must repay the $10,000 and would be debarred from federal funding for a minimum of 3 years. If the performer does not repay the full amount, he or she would be debarred, unless he or she ultimately made repayment, and the theater group would be responsible for repaying. If the theater group fails to repay, it is debarred until it or the performer makes such repayment, and the State Arts Council would be responsible for repaying the $10,000. If the State Arts Council does not repay, it would be debarred until it makes full repayment.

2. Procedural reforms

The Committee has taken a number of additional steps to further reduce the possibility of grants being made without the accountability required for all federal agencies and programs.

The Committee provides for the restructuring of the NEA grant procedures by directing the Chairman of the Endowment to take certain specific actions. First, he is required to establish an agency-wide panelist bank that will contain the names of qualified arts professionals as well as knowledgeable lay persons. The presence of knowledgeable lay persons on Endowment panels will bring valuable new public perspectives to these important proceedings. A knowledgeable lay person is someone with a high degree of familiarity with the arts discipline under consideration but who does not make a living in that particular field.

The Committee has also directed the NEA Chairman to standardize panel review procedures in an effort to make these procedures as fair and accountable as possible. It is anticipated that a standard application practice will be established for every grant program as well as a clearly defined appeals process for applicants whose applications are rejected. Other procedural requirements involve the increased use of on-site visits to view an applicant's work, followed by a written report that can assist review panelists in making their funding recommendations.

Although the Endowment is also required to keep a verbatim record of all panel proceedings, the Committee understands that this information would continue to be protected under the Freedom of Information Act deliberative process exemption.

In an effort to bring fresh perspectives to the deliberations of the review panels and to permit broader participation, the Committee has required that membership in these panels be changed substantially from year to year with no panel appointment to exceed three years.

Furthermore, the Committee requests that the proceedings of the National Council on the Arts be open to the public in accordance

with the Administrative Procedures Act. The Committee acknowledges that there will be some occasions that merit a closed session of the Council. It is anticipated, however, that these occasions will be rare and that the application review portion of the Council meetings will routinely be open to the public.

Finally, the Committee has expanded the role of the Inspector General of the NEA by requiring this office to conduct appropriate reviews of Endowment grantees to ensure compliance with all accounting and financial criteria.

The Committee is satisfied that these new provisions will protect the interests of both taxpayers and the arts. The Committee believes that these separate interests are fundamentally compatible.

3. General terms and conditions for NEA grant recipients

The Committee intends that the General Terms and Conditions form provided to recipients of the NEA grant funds under Section 5 shall include on such form the following:

> REPAYMENT OF FUNDS AND DEBARMENT.—In accordance with a Congressional directive, recipients of funds under Section 5 of the National Foundation on the Arts and Humanities Act of 1965 are requested to note the provisions of Section 10(g) of such Act regarding repayment of funds and debarment.

4. The Independent Commission

The Independent Commission which was established in the FY 1990 Interior Appropriations Act (P.L. 101-121), released its "Report to Congress on the National Endowment for the Arts" on September 11, 1990, the day before the Committee on Labor and Human Resources met to report S. 2724 to the Senate. The Committee acknowledges receiving the Independent Commission's recommendations and will review these findings with care. The Committee retains the option to incorporate Commission recommendations when S. 2724 is brought to the Senate floor.

C. ARTS EDUCATION

The Committee believes that in order to meet the need to expand arts education in this country, it is necessary to authorize a new program within the National Endowment for the Arts. The NEA would thereby have a major responsibility for providing leadership and stimulating the development of arts education at all levels of our society, working in cooperation with existing arts education and professional arts associations, institutions, organizations and state or other public agencies.

The purpose of the new authority would be to promote greater understanding and accessibility of the arts and to foster creativity among all Americans including diverse cultures, urban and rural populations, and underserved populations that include minorities and individuals with disabilities. The Endowment would establish programs to improve the quality of arts education within our nation's arts institutions, elementary and secondary schools, and institutions of higher learning and continue to expand existing educational programs now carried out by the Endowment. These new

initiatives would be integrated with one another and ongoing Endowment programs, and would be carried out by artists and performing and non-performing arts, and educational organizations that support artists' work, and state and local arts agencies.

In carrying out these purposes, the Chairperson of the National Endowment for the Arts would:

(1) Appoint an Advisory Board made up of leading professionals in the field of arts education, artists, administrators of institutions, patrons, educators from early childhood, elementary, secondary and postsecondary education, representatives of state arts agencies and local arts organizations, and other qualified individuals at all levels in order to assure community involvement and to provide counsel on policy and programs.

(2) Assure the integration and coordination of existing programs with the overall purpose of the arts education program.

The Committee intends that the National Arts Education Advisory Board advises the National Council on the Arts and the Chairperson of the National Endowment for the Arts with regard to its roles and responsibilities involving arts education. Recommendations for grant awards and cooperative agreements would continue to be reviewed by peer panels, the National Council on the Arts and determined by the Chairman of the Endowment.

In order to carry out the arts education program, there is provided a specific authorization funding level for FY 1991 of $10 million. This authority, however, would not be implemented until the Endowment's appropriation exceeded $175 million.

During the past twenty-five years, the audiences for and the geograpical diversity of the arts have undergone remarkable growth. Although there are many factors that contribute to this, the NEA and state and local arts agencies have played a major role.

There is, however, only one area where the trends have not been consistently positive—arts education. The lack of progress in this area and, in some cases, the deterioration of education programs and opportunities are the result of many factors; however, the Endowment's inability to provide greater leadership has been a significant factor.

In the late seventies, the Endowment, itself, conducted a study concerning the education, training, and development of professional artists. During the past decade, there has been a sustained focus on the status and needs of arts education at the elementary and secondary level. In spite of the nature of these concerns, not enough has been done in either area.

The President, in his campaign and throughout his presidency, has focused on the education needs of the nation. Concern has been expressed about America's work force—for our need for creativity and craftsmanship, our capacity to understand our multi-culturalism, and our ability to solve problems and communicate effectively. The arts are a vast, virtually untapped, resource for acquiring some of these competencies.

As part of the 1985 reauthorization, the NEA was mandated to conduct a study of arts education in America. The NEA report, "Toward Civilization," concluded that there exists "a gap between commitment and resources for arts education and the actual practice of arts education in classrooms."

The opening paragraph of the foreword to the report stated the following:

> We need to help our children move toward civilization. As we stand on the threshold of the 21st century, we are concerned, and rightly so, with the quality of the education of young Americans and whether it is preparing them for the challenges of the future. Many of the challenges will, obviously, be scientific and technological--and our schools must give our children the tools to deal with them. Less obviously, many of the challenges will be cultural. They will pose questions concerning what it is to be an American and what our civilization stands for. Arts education can help this.

The report further stated that NEA's responsibility for arts education should be similar to that of the National Science Foundation in science education. The past twenty-five years, however, have demonstrated that the structure of the Arts Endowment, and lack of adequate funding, have inhibited its ability to provide effective leadership in this area.

The NEA has tried in the past to add resources to its budget for education programs but has been unsuccessful primarily because there is no specific authorization within the Act for such an initiative. The Committee believes that authorizing a new program for arts education within the National Endowment for the Arts is critical.

The Committee believes that as part of educational reform, every child should have sequential K–12 curriculum-based arts education. In addition, arts education extends beyond the traditional classroom and K–12 students. The Committee believes that arts education is a life-long experience, from early childhood through adulthood, developed not only through classroom environments but also through programs and performances of arts institutions. The parameters of the arts are endless and a person's involvement in their presentation and appreciation are unlimited.

The Committee intends that authorizing a program for arts education helps accomplish the following:

(1) Improve the quality of life-long learning in the arts at all levels, from early childhood to adulthood;

(2) Promote and improve the availability of arts instruction for American youth;

(3) Enhance the quality of arts instruction in programs of teacher education;

(4) Strengthen and support research in arts education;

(5) Develop arts faculty resources and talents;

(6) Support and encourage the development of improved curriculum materials in the arts;

(7) Improve evaluation and assessment of arts education programs and instruction;

(8) Foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at state and local levels;

(9) Encourage partnerships between arts organizations, business, colleges and universities, and arts and education agencies at state and local levels;

(10) Support apprenticeships, internships, and other career-oriented work-study experiences for artists and arts teachers;

(11) Support and encourage residencies of artists at all educational levels;

(12) Support the use of technology and improved facilities and resources in arts education programs at all levels;

(13) Foster accessibility to the arts through education in rural and inner-city areas and among culturally diverse populations; and

(14) Foster the efforts of arts institutions and local, state and regional arts agencies to improve access to the arts through arts education.

D. AMERICAN ARTS FESTIVALS

The Committee has authorized funding for a series of American arts festivals to be held each year under the sponsorship of the National Endowment for the Arts. These festivals will juxtapose diverse art forms, thereby illustrating Americans' plural heritages and the bountiful results of democracy at work in the arts. The celebrations will enable Americans to understand the importance of art in documenting history, encouraging creativity and building vibrant communities.

The types of programs included in the celebrations will include, but not be limited to, presentations in the performing arts, visual arts, media arts, and crafts. The festivals will showcase traditional artforms, representational art and contemporary works. Each festival will incorporate educational programs to inform audiences about the arts and artists involved and each will encourage community participation in the planning and implementation of events.

The festivals will be designed to attract a broad spectrum of the American people and will take place in accessible locations where admission charges will be low or free. It is anticipated by the Committee that Americans from diverse ethnic and cultural backgrounds will be participants at all levels.

The National Endowment for the Arts should coordinate planning for these festivals with the seven regional arts organizations: Arts Midwest, Consortium for the Pacific Arts and Culture, Mid-America Arts Alliance, Mid-Atlantic States Arts Consortium, New England Foundation for the Arts, Southern Arts Federation and the Western States Arts Foundation.

E. LOCAL ARTS AGENCIES

The Committee recognizes the continuing growth and effectiveness of local arts agencies by adding a definition of the term "local arts agency" to the "definitions" section of the enabling statute. Such an agency is defined as "a community organization or an agency of local government that primarily provides financial support, services, or other programs for a variety of arts organizations or individual artists." With local arts agencies now operating in

over 3,000 communities across the United States, the Committee proposes adding the term "local arts agency" to the statute wherever the mandated involvement of these organizations is warranted.

The particular form that a local arts agency takes—a not-for-profit private corporation, a public agency or department of local government—reflects the particular set of interests, resources, dynamics and needs of each specific community. Local arts agencies serve areas as small as a neighborhood or as complex as an urban metropolitan area. They serve populations of all sizes and exist in rural, urban and suburban areas. Through the work of these agencies, the arts are made accessible to vast numbers of the American people.

The Committee reaffirms its support for the Locals Program at the National Endowment for the Arts that provides various types of support to strengthen the services provided by local arts agencies.

F. INTERNATIONAL ACTIVITIES AT NEA

The Committee welcomed testimony offered by NEA Chairman John Frohnmayer that international arts activities would be a focus of future activity at the Arts Endowment. Initiatives in the international realm are encouraged by the Committee, provided that the primary intent of any such efforts is to support American arts and artists and those who disseminate their work abroad. Given the limited funds available to the NEA, the Committee advises against diverting resources to supporting the artists of other nations in any efforts to gain exposure within the United States.

G. LANDSCAPE DESIGN AND ASSESSMENT

The Committee instructs the NEA to establish in its Design Arts Program a "Landscape Design and Assessment" category to provide matching grants to assist states, local government, and private groups in identifying and preparing comprehensive plans to recognize and to encourage the wise and appropriate future use of significant American landscapes. Guidelines shall direct applicants to systematically identify, evaluate, and comparatively assess a variety of landscape values to the public, including a detailed, comparative assessment of nationally significant natural, historic, cultural, and aesthetic values. The assessment shall be carried out using a task force of public and private interests representative of major landscape values and interests within the state, and shall develop a guide for achieving desired community recommendation for future landscape management.

Through Design Arts, the Endowment shall establish a new Design Arts grant category—Landscape Design and Assessment. The Endowment would write grant guidelines, using staff members who understand landscape design, rural planning, and historic preservation. The Endowment would establish an advisory panel made up of landscape architects, professional planners, historic preservation specialists, at least one member of a state or local arts agency's design section, and representatives from leading schools of architecture and planning.

Possible grant recipients include landscape architecture schools, state arts agencies with design programs, state historic preservation agencies, chapters of professional design organizations, the National Trust for Historic Preservation and the Alliance for Historic Landscape Preservation, as well as a variety of state and local agencies. Notification of the category would be made widely available via professional, state, and local networks.

The incentive to think about long-term landscape solutions is the objective of the Program. Since the users and beneficiaries of America's countryside often live elsewhere, sharing the responsibility of the cost seems appropriate. Moreover, there is no ready source of local design assistance in rural areas where significant landscapes are threatened.

The Committee acknowledges that no other federal agency has such a program and most with traditional land use roles deal either with federal land or perform a regulatory role. The Arts Endowment, as the only agency charged with promoting aesthetic design quality, has a proven process for awarding grants of this nature.

VI. National Endowment for the Humanities

A. HUMANITIES DATA COLLECTION AND DISSEMINATION

The National Endowment for the Humanities had accomplished much since 1985 in the development of a practical system of national information and data collection. The Committee applauds the production of a compendium of data on the humanities that will be released in October 1990 and encourages the Endowment to update and disseminate future such compendia on an annual basis. Of particular interest to the Committee will be the response of the humanities community at large to the compendium as well as suggestions the community may have for improvement and/or expansion of this potentially useful reference work.

The Committee is pleased to learn of the Endowment's initiation of consultation on data and information issues with members of the humanities and higher education communities and encourages the agency to continue such contacts with appropriate groups.

The Committee encourages the Endowment to make known its interest in receiving grant applications for projects to collect and analyze specialized data on the humanities and for secondary analysis of data relevant to understanding trends in the humanities. It is assumed that such applications would be subject to the regular peer review process.

B. NEH RELATIONSHIP WITH OTHER GRANTING ORGANIZATIONS

Testimony received by the Committee from the Chairperson of NEH and other witnesses confirms the importance of the working relationship between the Endowment and other organizations that provide special services and support to humanities scholars. The Committee recognizes that the experience from the enhanced oversight of NEH grants with these organizations initiated in November 1989 indicates that the level of oversight applied before the FY 1990 legislation is adequate and effective. Therefore, the Commit-

tee authorizes the NEH Chairperson to return to the previous oversight arrangements.

C. DISCRETIONARY FUNDS FOR STATE HUMANITIES COUNCILS

The Committee recommends that Sec. 7(F)(4) of the Act be amended to reduce from 34 percent to 25 percent the amount of funds which the NEH Chairperson has discretion on awarding and increasing from 44 percent to 50 percent the amount of funds which are distributed equally to the states. The amount distributed among the States by the ratio of that State's population to the national population is unchanged. The Committee believes that, as the Endowments are pressed by Congress to be more accountable for the funds they distribute, such a shift in the formula used to distribute NEH monies to humanities councils is justified. The effect of this amendment is to bring the NEH Chairperson's discretionary allotment in line with the NEA Chairperson's discretionary allotment and to increase the amount of funds available to all states in equal amounts.

D. NEH DISSERTATION SUPPORT

The Committee heard extensive testimony concerning the difficulties encountered by doctoral students in the humanities in securing financial support for the final, dissertation stage of doctoral study. In science and engineering fields, advanced students are frequently supported during their dissertation work as research assistants through federally-funded research project grants. Several witnesses testified that such a mechanism is lacking in the humanities. The principal means of supporting graduate study in the humanities—teaching assistantships, personal earnings and university fellowships—typically expire or are depleted by the dissertation stage. As a consequence, many humanities graduate students must work part-time while trying to complete their dissertations, or drop out of their programs altogether to work full-time, hoping to return to complete their dissertations.

The Committee acknowledges that young humanities scholars often commit several years of their lives to doctoral study, only to be forced to extend further their time to gain their degrees or even fail to attain their degrees because support for dissertation research is not available. Such outcomes are a heavy burden to the students affected, and a considerable loss to the nation.

It was made clear by the distinguished witnesses who appeared before the Subcommittee that dissertation support need not be student aid in the traditional sense. Rather it could be research funding for advanced doctoral students completing their final transition stage to careers in teaching and scholarly research. Such support could be a straight-forward extension of one of the core activities of the NEH: the provision of competitively-funded fellowships for humanities research.

The Committee urges the Humanities Endowment to explore the possibility of establishing such a program for dissertation support—even if on an experimental basis. The Committee is sympathetic with the goal of bringing federal support for graduate study in the humanities and the sciences into closer accord. As the nation's

leading supporter of humanities research, the NEH is urged to participate in this effort.

E. NEH DISCLOSURE OF PANELIST NAMES

The Committee wishes to reiterate and emphasize its long-standing request to the National Endowment for the Humanities that names of all review panelists be readily available to any interested party upon request as soon as such panelists are appointed to serve on any NEH review panel. Since the Arts Endowment utilizes "standing" panels that meet over an extended period, it is assumed that the public has access to the names of those serving as panelists. In order to be clear on this issue, and in view of the new requirements in this legislation for rotating NEA panel membership, the Committee states that names of NEH and NEA panelists must be available to the public as soon as they are appointed to serve.

Beginning with the Annual Report for FY 1990, the Committee requests the NEH to list all panelists in the Annual Report under the Division and Program in which they served. For example, if an individual serves on a grants panel that is convened to review proposals for Humanities Projects in Museums and Historical Organizations within the Division of General Programs, this individual should be so identified in the Annual Report. The names of members of "standing" review panels should be indicated as such and listed in the NEH Annual Report in the same explicit manner. The foregoing procedures will help to ensure the accountability of the NEH review panel process. The Committee points out that panelists serving at the National Endowment for the Arts are listed in the above manner in the NEA Annual Report.

VII. Institute of Museum Services

A. PROFESSIONAL SERVICES PROGRAM

The Committee recognizes that the Professional Services Program at the Institute of Museum Services was originally established to provide support to the museum field at large by making grants to professional museum organizations. This program filled the void created by the termination in 1984 of the National Museum Act administered by the Smithsonian Institution. Grants awarded under the National Museum Act had provided support for training opportunities for museum professionals, research on museum-related problems and museum management.

The Professional Services Program has funded many worthy projects, including a project of the American Association of Museums that will address the critical need for current fieldwide information by supporting an important comprehensive survey of museums in the United States. Other Professional Services Program grants have assisted the Association of Science-Technology Centers, the American Association for State and Local History and the National Institute for the Conservation of Cultural Property.

While the Committee does not wish to change the thrust of the Professional Services Program, it believes that the program should be broadened to allow the flexibility to consider a wider range of legitimate, competitive proposals. This would increase the number

and the quality of proposals and directly benefit the museum field and the public. Several entities included in this legislation that are not currently eligible to compete for grants are: state museums, universities, non-profit research firms and other museums.

B. GENERAL OPERATING SUPPORT PROGRAM

In the course of its hearing on the Institute of Museum Services, the Committee focused its attention on the General Operating Support Program (GOS). This program that garners the largest share of the IMS budget, provides competitive grants to museums for operations. The Committee regards the GOS Program as the most important program operated by IMS and would not look favorably on the expansion of other programs at the expense of the GOS Program.

Testimony was received that addressed the peer review process employed by the Institute for making GOS grants. The main standard for evaluating GOS applications is a standard of excellence in performance and a meeting of generally accepted practices in the museum field. As the GOS Peer Reviewer Handbook states, reviewers evaluate applications based on how well "the museum staff understands and adheres to professional standards" as well as on "how well the museum uses its available resources." For many of the reviewers, their only source of information about the applicant is that which is supplied by the applicant institution. While the Committee acknowledges that there is no widespread abuse in exaggerating merit on the application forms, it is possible that the process is open to self-promotion. The IMS staff has a small administrative budget and cannot be expected to travel extensively to sites to verify applications nor would it be qualified to audit the broad range of museums that qualify to apply for grants.

In light of this situation, it was suggested at the hearing that the accreditation program administered by an organization that provides this formal recognition be considered as an independent indicator of quality. Accreditation programs as administered by the American Association of Museums and the American Association of Zoological Parks and Aquariums have become the accepted standard of measure for their respective fields. The accreditation process not only requires a detailed questionnaire but also an extensive site visit to confirm the profile as described by the institution.

The Committee acknowledges that many qualified applicants for GOS support have not been accredited. The process is a lengthy and careful one and does involve some cost to the institution. The Committee suggests, therefore, that the Institute consider ways of encouraging more institutions to seek accreditation through the use of its Museum Assessment Program grants and follow this up in a few years by exploring ways of recognizing accredited museums that apply for GOS support. The method suggested at the hearing was that of awarding a "quality" point to the GOS application scores as a way of lending some weigh in the direction of insuring that institutions of proven quality fare well in the competition. No points should be lost for lack of accreditation but an insti-

tution that achieves this well-earned status perhaps should be given a small advantage.

The Committee also encourages the Institute to continue to make every effort to ensure fairness in the review process. In this regard it was suggested that attention be given to the scoring mechanism for GOS applications. Each section of the application is currently rated on a scoring system of one to seven points, one being the lowest and seven being the highest. The Committee understands that ratings of 4, 5 or 6 on a single section often make the difference of success or failure in an application. Since there is virtually no standard of measure used by reviewers to distinguish among these critical levels of quality, the Committee urges the Institute to develop sharper criteria for grade levels in an effort to be fairer to all applicants.

While the Institute has already indicated a desire to move toward a system of panel review whereby reviewers meet face to face to discuss proposals, the Committee strongly encourages efforts in this direction. It is the opinion of the Committee that the isolation of individual field reviewers can jeopardize the fairness and consistency of the review process. While higher administrative costs are inevitable with a panel review system, the objectivity and fairness gained would be well worth the effort in the view of the Committee. In addition, the Committee urges the Institute to seek out the most qualified museum professionals to serve as application reviewers. Reviewers must have broad experience in museum management and administration in order to provide the most reliable and valid reviews.

VIII. Arts and Artifacts Indemnity Program

The Arts and Artifacts Indemnity Program was created in 1975 by Congress for the purposes of minimizing the costs of insuring international exhibitions and making cultural treasures accessible to museum visitors world-wide. The program is administered by the Museum Program of the National Endowment for the Arts on behalf of the Federal Council on the Arts and Humanities. An Indemnity Advisory panel makes recommendations to the Federal Council which, in turn, decides which exhibitions will receive indemnification.

In fifteen years, the program has been able to indemnify 328 exhibitions, saving the organizers nearly $40 million in commercial insurance premiums. The government's costs have been limited to administrative expenses and two claims: one paid in 1984 for $10,000 and one in 1989 for $4,700.

By almost any measure, the Indemnity Program has been an unqualified success. The Committee wishes to commend members of the Indemnity Advisory Panel, members of the Federal Council and Arts Endowment staff who have contributed to the success of this worthwhile and cost-effective program.

A few changes are proposed to increase the effectiveness of the Indemnity Program and to further benefit the American public. First, the Committee proposes to amend the statute by increasing the overall amount of coverage available from the current statutory limit of $1,200,000,000 to $5,000,000,000 and the amount of in-

demnity available for a single exhibition from $125,000,000 to $500,000,000. The Committee believes that these higher limits can be justified by the dramatic rise in the value of individual works of art as well as by the increased demand for coverage. The upward adjustments are defensible if the Program is to continue to help make possible exhibitions of great works of art throughout the country. The Committee expects that any further increases in the indemnity limits will not occur before the Arts and Artifacts Indemnity Act is next reauthorized or until 1995, whichever occurs later.

Secondly, the Committee proposes widening eligibility under the Indemnity Program to include coverage of U.S.-owned objects in exhibitions that also include foreign-owned loans. Under the current guidelines, U.S.-owned loans may be indemnified only when exhibited abroad, and foreign-owned objects are indemnified while on exhibition in the United States. The Committee believes that if an exhibition of loans from abroad meets the criteria of having educational, cultural, historical or scientific value, and is certified by the Director of the United States Information Agency as being in the National interest, the U.S.-owned loans to the exhibition should also be eligible for government indemnification.

This modification would provide additional relief for borrowing institutions without significantly adding to the government's exposure, since coverage during international transit (which is the time of greatest risk) would not be required for the U.S.-owned loans.

The Committee wishes to stress that this amendment is not intended to encourage any major shift in emphasis in existing indemnity practice. It is expected that the Federal Council will continue to provide indemnity coverage primarily for exhibitions of objects coming to the United States from abroad, and that coverage of the U.S.-owned loans to such exhibitions is a small but important, technical adjustment.

Finally, the Committee urges the Federal Council to redouble its efforts to distribute indemnity coverage equitably and to ensure that the widest range of museums, including small institutions, are participants in the Program.

IX. Miscellaneous Provisions and Views

A. PRESERVING AMERICA'S HERITAGE

The Committee was pleased to learn that the Arts and Humanities Endowments and the Institute of Museum Services have continue to provide support for the care and conservation of our nation's heritage, which is embodied in its:

Artistic works;
Documents, books, film and information on magnetic media;
Historic structures;
Historical objects;
Material evidence of past and present cultures; and
Natural science collections.

These are irreplaceable treasures that tell us where we have been and where we are going in the future. Viewed another way, these are the capital resources we must now care for so they will be available to present and future generations.

Reauthorization of the National Endowments for the Arts and the Humanities and the Institute of Museum Services is essential to continuing the progress that has been made toward developing and implementing a national conservation strategy. Such a strategy will comprehensively address collections care needs and enhance the partnership of support from individuals, businesses, foundations and state and local governments. Through federal incentive grants, the Endowments and the Institute provide leadership to thousands of private and state and local government institutions which hold treasures in trust for the American people.

The Committee wishes to recognize the strides made by the Endowments and the Institute since the last reauthorization in strengthening their programs that address the conservation needs of America's cultural patrimony. In some cases, additional resources have wisely been allocated to these efforts. For example, the Institute of Museum Services recently established the Conservation Assessment Program (CAP), administered by the National Institute for the Conservation of Cultural Property, the umbrella organization for many conservation and preservation endeavors. CAP is a welcome funding program that will assist a participating institution indentifying its own conservation needs and priorities.

In addition, the Committee applauds the Humanities Endowment's Office of Preservation for expanding its attention to include the preservation of objects of material culture that are housed in our nation's universities and museums. Objects in these collections form an integral part of the record of civilization and, together with written documents in libraries and archives, provide the basis for continued learning, research and appreciation of the humanities. The Office of Preservation has an excellent ongoing program that assists institutions in preserving significant resources for humanities research, such as books, newspapers, films and photographs.

Testimony received by the Subcommittee revealed that the deteriorating condition of many collections of material culture has been caused by inadequate or non-existent environmental and security controls, improper storage facilities and insufficient or total lack of conservation treatment. In addition, there is a severe shortage of professionally-trained conservators and collections care technicians to cope with the growing crisis. The National Heritage Preservation Program at the NEH was designed to meet such needs. The Committee urges the expansion of support for this important new initiative.

B. FEDERAL, STATE AND LOCAL SUPPORT FOR THE ARTS

The Committee acknowledges that over the last twenty-five years there have been many important changes in how the arts are supported in the United States. When the National Endowment for the Arts was first authorized in 1965, there was virtually no public funding for the arts at the federal, state or local levels. With the creation of the NEA came the impetus at all three levels for the government to take on more of a role in supporting the arts. At first the Federal government, through the Endowment, took primary responsibility and appropriated the largest single amount for

the arts. The states took secondary responsibility through the state arts agencies and local governments took third place with very modest appropriated funds. As the Endowment grew, the state and local governments were inspired to increase their support such that in the last five years the equation has reversed. Now local arts agencies receive well over $500 million from local appropriations, states are funding the arts at over $250 million and the Federal government is third with a current appropriation of $171 million.

The Committee is aware of the fact that as the funding levels change so does the role of the money that is generated from these three different sources. For example, local government with greater dollars input is taking on more of an operating support role rather than merely program support. In light of these changing levels and roles of government arts funding, the Committee believes it is important to study how these funds may be used most effectively. It therefore asks that a study be undertaken by the Federal Council on the Arts and Humanities to consider the changing roles and impact of such support for the arts at each level. The Committee believes that such a study should be undertaken and submitted to Congress before any steps are taken to reorganize the National Endowment for the Arts in such a way that would reallocate significant amounts of federal funds to state or local arts agencies. If the study should make a compelling case for assigning additional federal funds to state arts agencies with a resulting smaller role for the Federal government, the Committee will consider such steps at an appropriate time in the future.

C. INDEPENDENCE OF ARTS AND HUMANITIES COUNCILS

Section 4(c) of the Act states that "In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association." The Committee wishes to alleviate any possibility of misinterpretation by clarifying that the protection provided by this provision of the Act extends to arts and humanities councils in the states.

X. CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2724, a bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, as ordered reported by the Senate Committee on Labor and Human Resources on September 12, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director).

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2724.

2. Bill title: Arts, Humanities, and Museums Amendments of 1990.

3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on September 12, 1990.

4. Bill purpose: This bill extends and improves arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Authorizations					
National Endowment of the Arts:					
Authorization level	195.3	203.2	211.3	219.7	228.5
Estimated outlays	66.4	160.9	194.7	212.2	220.7
American Arts Celebration:					
Authorization level	10.0	10.0	10.0	10.0	10.0
Estimated outlays	3.4	8.1	9.5	10.0	10.0
Federal Council on the Arts and Humanities:					
Authorization level	.3	.3	.3	.3	.3
Estimated outlays	.1	.2	.3	.3	.3
National Endowment of the Humanities:					
Authorization level	165.0	171.7	178.5	185.6	193.1
Estimated outlays	74.3	141.6	167.1	180.3	187.6
Institute of Museum Services:					
Authorization level	24.0	25.0	26.0	27.0	28.1
Estimated outlays	6.2	24.3	25.2	26.2	27.3
Bill total:					
Authorization level	394.6	410.1	426.0	442.6	460.0
Estimated outlays	150.4	335.0	396.7	429.1	445.8

The costs of this bill fall in Function 500.

Basis of estimate: S. 2724 extends and improves arts and humanities programs, museum services, and arts and artifacts indemnification. The authorization levels for 1991 are stated in the bill. The 1992–1995 estimated levels of authorization are the 1991 levels increased for projected annual inflation, except for the American Arts Celebration authorization, which is stated for 1991–1995. Estimated outlays assume full appropriation of the amounts authorized and assume continuation of the current spending patterns. The bill proposes a salary reduction for the Director of the Institute of Museum Services, which would result in a cost savings of an estimated $18,000 for 1991.

This bill also amends the Arts and Artifacts Indemnity Act. The maximum limits of coverage for agreements entered into by the

Council are currently $1.2 billion in total and $125 million for a single exhibit. This amendment would raise the current limit for the aggregate maximum amount of coverage to $5 billion, increasing the potential liability to the government by $3.8 billion. It is not known if, or when, any of the $3.8 billion would need to be funded. Since its enactment only two claims have ever been filed. The most recent claim was made in 1989 and was for $4,700. While there could be increased costs to the federal government, CBO has no basis on which to make a precise estimate.

6. Estimated cost to State and local government: The federal share of grants and agreements entered into for the purpose of encouraging and developing arts education cannot exceed 50 percent of the cost of the activity for which the grant is made. State and local governments, or private entities would assume the remaining cost of the activity.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO prepared a cost estimate for H.R. 4825, which also amended the National Foundation of the Arts and Humanities Act of 1965, for the House Committee on Education and Labor on June 25, 1990.

9. Estimate prepared by: Diane Celuch.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

XI. Section-by-Section Analysis

ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

A BILL To amend the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et. seq.), and for other purposes

Title I: National Foundation on the Arts and Humanities

Section 101

Section 101(1) of the bill amends the definition of "the arts" in section 3(a) of the National Foundation on the Arts and the Humanities Act of 1965, hereafter referred to as "Act", to recognize explicitly the inclusion of the traditional arts as practiced throughout the country within that term.

Section 101(2) of the bill amends the definition of the term "project" in section 3(d) of the Act to underscore that programs which enhance public knowledge and understanding of the arts should be available to all peoples throughout the nation.

Section 101(3) of the bill changes the internal section references of section 3(d) of the Act to the Code section numbers and amends the definition of "project" in section 3(d) of the Act so that a National Endowment for the Humanities (NEH) preservation project could use grant funds for renovation and construction purposes. Currently, NEH may fund renovation and construction activities only with challenge grant funds.

Section 101(4) of the bill defines "local arts agency" as a community organization or an agency of local government which provides support and services for a variety of arts organizations or artists.

Section 102

Section 102(1) of the bill makes several changes to section 5(c) of the Act. Paragraph (2) is amended to recognize that excellence is embodied in the artistic standards applicable to the traditional arts. Paragraph (5) is amended to reference education explicitly among the types of arts projects which may be supported. New paragraphs (8) and (9) are added: the former describing authority to provide organizational and managerial assistance to arts organizations; the latter recognizing the authority of the National Endowment for the Arts (NEA) to support international arts activities. Paragraph (9) conforms the NEA's basic grant-making authority to that of the NEH, which was amended for this purpose in 1985.

Section 102(2) of the bill revises certain reporting requirements for state arts agencies as outlined in section 5(g)(2)(E) of the Act. Currently, state arts agencies are required by the Act to provide information annually on their activities over the preceding two years. The bill requires this information to be reported annually only for the most recent preceding year for which information is available. The bill changes the requirement of reporting this information from the preceding two years to only the preceding year because elsewhere, the state has already agreed to provide annual reports. This method was decided upon after a costly and intense study undertaken with the state arts agencies to create an annual information collection system. The change would also prevent the undesirable effect of receiving duplicative information. The bill also increases the scope of the reporting requirement to include all projects funded by the arts agencies. This change also makes the requirement more compatible with existing state information.

Section 102(3) of the bill amends the NEA Challenge Grant program authority as outlined in section 5(l)(1) of the Act to include a new emphasis for the use of Challenge grants: stimulating artistic activity and awareness with respect to the varied cultural traditions throughout the nation.

Section 102(4) of the bill strikes out the requirement in section 5(m) of the Act that a "national information and data collection" system be developed by NEA and inserts a requirement that such a system be employed. This change is being made because the system has already been developed pursuant to the requirements of the 1985 reauthorization. The provision that a plan be submitted to Congress within one year of the effective date of the 1985 Act has been accomplished and, therefore, that provision is also being deleted. This section deletes the provision of the last sentence which currently provides that the state of the arts report was to be submitted by October 1, 1988 and biennially thereafter. The report for 1988 was submitted and a second one will be submitted in accordance with the current law by October 1, 1990. The bill would require submission of the next report in 1992, and quadrennially thereafter. Generally, changes in the arts fields do not occur so rapidly as to warrant a full-scale report to the Congress and the President every two years. A four-year interval would provide more perspective and thus permit a more significant report. Developments that might occur between reports could be brought to the attention of Congress through the NEA planning documents, Con-

gressional budget submissions and reports, or other appropriate formats.

Section 103

Section 103 of the bill amends section 6 of the Act to include local arts agency leaders as possible members eligible for selection to the National Council on the Arts.

Section 104

Section 104(1) of the bill amends the current statutory language to provide that *the* National Endowment for the Humanities is being created. The current language states that "a" National Endowment is being created.

Section 104(2) of the bill amends the introductory paragraph of section 7(c) of the Act to provide for the different means by which the NEH Chairperson may carry out the nine program areas set forth. The amendment specifically provides that "contracts, grants, loans, and other forms of assistance" may be used by the Chairperson. The understanding has always been that the Chairperson has had such authority, even though such references only appear in paragraphs 2, 3, and 7 of Section 7(c) of the Act. Congress provided NEA with express authority to enter into contracts in 1967 when Section 7(c) was amended to provide authority to carry out a program of "contracts with, or grants-in-aid to, groups or * * * individuals * * *" Because the general authority has been extended to all programs, reference to the particular methods, e.g., contracts, grants and loans, in paragraphs 2, 3, and 7 of Section 7(c) have been deleted.

Also, it amends Section 7(c) of the Act by adding paragraph (10), which pertains to fostering interchange of information in the humanities, by adding to the Chairperson's authority to foster programs and projects which provide access and preservation of certain materials. Refernece to "projects" allows preservation funds to be used for renovation and construction.

Section 104(3) of the bill makes a technical correction in the term used in section 7(d) of the Act to describe the Chairperson's responsibility for coordinating NEH's programs with other federal programs.

Section 104(4)(A) of the bill specifies that whenever a State chooses to establish a State agency to administer the State's humanities plan, that State must designate the humanities council which is in existence on the date the State agency is established as the State agency. The current statutory language in section 7(f)(2)(A) requires only that humanities councils "in existence on the date of the enactment of the Arts and Humanities Act of 1985" are eligible to be designated the sole State agency. Such groups might no longer exist.

Section 104(4)(B–C) of the bill revises certain reporting requirements for state humanities agencies, even though there are no such agencies at this time. Currently, state humanities agencies, if any existed, would be required to provide certain data on an annual basis under section 7(f)(2)(A)(viii) (I) and (II) of the Act. This requirement in current law relates to the level of participation by scholars and scholarly organizations and the extent to which pro-

grams are available to all people and communities in a given state. The bill changes the reporting requirements for these data from information for the preceding two years to the preceding year for which the information is available. With this change, information from only the preceding year is necessary. Annual reporting of this type of data is more compatible with existing state information systems.

Section 104(4)(D–E) of the bill makes the same reporting changes to section 7(f)(3)(J) (i) and (ii) of the Act for state humanities councils or committees as was provided for in Section 103(4)(B–C) with respect to state humanities agencies.

Section 104(F) of the bill alters the allocation formula such that the NEH Chairperson would receive 25 percent as opposed to 34 percent of the excess State humanities program funds, 53 percent would be allotted in equal amounts among the States and the 22 percent remaining would be distributed on the basis of population.

Section 104(5) of the bill is amended to delete the date by which the Secretary of Labor was to prescribe standards. The deadline has been met and the deletion does not affect the Secretary's authority to prescribe standards, regulations, and procedures.

Section 104(6) of the bill corrects the name of the National Endowment for the Humanities as misstated in section 7(h)(2)(B).

Section 104(7) of the bill strikes out the requirement in section 7(k) of the Act that a "national information and data collection" system be developed by NEH and inserts a requirement that such a system be employed. This change is being made because the system has already been developed pursuant to the requirements of the 1985 Act. The provision that a plan be submitted to Congress within one year of the effective date of the 1985 Act has been accomplished and, therefore, that provision is being deleted. The foregoing are the same being recommended for NEA in Section 102(4)(A) of the bill. The last sentence of Section 7(k) currently provides that the state of the humanities report was to be submitted by October 1, 1988 and biennially thereafter. The report for 1988 was submitted and a second one will be submitted in accordance with current law by October 1, 1990. The bill would require submission of the next report in 1992, and quadrennially thereafter. Generally, changes in the humanities field do not occur so rapidly as to warrant a full-scale report to the Congress and President every two years. A four-year interval would probably provide more perspective and thus permit a more significant report. Developments that might occur between reports could be brought to the attention of Congress through NEH planning documents, Congressional budget submissions and reports or other appropriate formats.

Section 104(8) of the bill repeals subsection 7(l) of the Act which required that a plan be submitted by NEH to the Equal Employment Opportunity Commission by January 31, 1986. Such a report was presented to EEOC by the date indicated, fulfilling the requirements of this subsection. NEH continues to be in compliance with EEOC requirements which no longer include submission of goals and timetables for agencies with less than 500 employees.

In place of the foregoing provision which has been deleted, a new provision has been inserted to require that a group applicant must meet certain statutory tests in order to qualify as a non-profit orga-

nization. This new provision is the same as the one found in Section 5(f) of the Act and is being added to be in conformity with NEA's provision.

A new subsection (m) has been added to Section 7 of the Act to provide express authority to the Chairperson, with the advice of the National Council on the Humanities, to make an annual $10,000 award to the Jefferson Lecturer and up to five $5,000 awards to persons selected to be recipients of the Charles Frankel Prize. These awards have been given in the past by NEH with the knowledge and implicit approval of Congress. The NEA has the National Medal of Arts award program which was established in 1983.

Any group receiving a grant from the NEH may award grants (subgrants) to carry out the purposes for which the grant was received.

Section 105

Section 105 of the bill repeals subsection 9(d) of the Act. Section 9(d) required the Federal Council on the Arts and the Humanities to undertake a study pertaining to museums and the Institute of Museum Services. A report based on this study was presented to Congress in February 1988, thereby fulfilling the requirement of this subsection.

The Federal Council is now required to conduct a study of the nature and level of public support for arts at the Federal, State, and local level, to be completed within one year of enactment.

Section 105 of the bill alters the list of members of the Federal Council on the Arts to exclude the commissioner on aging, a member designated by the United States Information Agency, a member designated by the Secretary of the Interior, and the chairman of the Senate Commission on Art and Antiques, and inserting the Director of the USIA, the Director of the National Park Service, and the President Pro Tempore of the Senate.

Section 106

Section 106 of the bill adds a new Section 10 "Arts Education", with the purpose of encouraging and developing quality arts education at all formal grade levels and including informal multi-age level educational programs. It also authorizes the Chairperson of the NEA to pay the Federal share of awarding grants and entering into contracts with schools, groups, and individuals concerned with the arts in education. The Federal share may not exceed 50 percent of the cost. Funds may be used to encourage public knowledge and development of artists through partnerships between local and State arts and education agencies, businesses, colleges, and universities. Funds would assist artists and teachers of the arts in career development; improve evaluation and assessment of arts education programs; support art residencies, technology, and research.

This section also establishes a National Arts Education Advisory Board consisting of 15 members appointed by the Chairperson of the NEA. The board is to be broadly representative of the field of arts education. Two members are to be from the general public who are knowledgeable in arts education, and not less than one who is a parent of a school age child involved in arts education. Members should represent various geographical regions of the U.S.

The Chairperson of the NEA may appoint to the Board no more than 3 members from any State. There should be equitable representation of women, minorities, and persons with disabilities. The basic term of office will be 5 years, with 3 to serve 5 years, 3 for 4 years, 3 for 3 years, 3 for 2 years, and 3 to serve one year. Any member who has been on the Board for 7 consecutive years will be ineligible during the 3 year period following the expiration. The Chairperson of the Board shall be designated by the Chairperson of the NEA from among the appointed members. The Board shall meet not less than four times a year. Eight members constitute a quorum. Board members are allowed travel expenses including per diem. The duties of the Board include coordination of activities to encourage and develop quality arts education in conjunction with elementary, secondary, and postsecondary education; to stimulate research to teach quality arts education; and to encourage other Federal and State agencies in the area of arts education.

Section 107

Section 107(1) of the bill alters the reference to the U.S. Code from section 529 to section 3324, as per changes in the Code. The bill further amends the unnumbered paragraph following paragraph (8) of section 10(a) of the Act by making it new paragraph (b). The bill further amends said unnumbered paragraph as paragraphs (c) and (d), at the places where mention is made of the selection of panels of experts and their duties. These new subsections were created because they did not relate to the preceding paragraph (8) and dealt with separate subject matters. By virtue of adding these two new subsections, the subsequent subsections (b), (c), and (d) have been redesignated as (e), (f), and (g). Two subsections have been deleted. Subsection (e) required a joint study of arts and humanities education to be conducted by the two Endowments and the Secretary of Education. The study was completed and the report made to the various committees of Congress by the date indicated, thereby fulfilling the requirements of this subsection. Subsection (f) required the two Endowments to submit reports to Congress detailing the procedures used in selecting experts for appointment to panels and the procedures used by the panels in making recommendations for funding applications. Both studies were completed and submitted to Congress.

This section also outlines the Chairperson's functions for both the NEA and NEH as the prescription of regulations; receipt of money and property donated, bequeathed, devised; utilization of experts and consultants; and abiding by civil service laws.

The Chairperson of the NEA is required to ensure that each panel of experts has wide geographic, aesthetic, ethnic, and minority representation by (1) creating an agencywide panelist bank including knowledgeable laypersons and insuring where feasible that they serve on panels, (2) requiring site visits on applicants, (3) requiring that a verbatim record of panel deliberations and recommendations be kept, (4) requiring that the membership of each panel change substantially from year to year, with no appointment to a panel to exceed three years, and (5) requiring all meetings of the National Council on the Arts be open to the public.

The Inspector General of the NEA is required to conduct appropriate reviews to ensure grantee compliance with regulations.

This section also imposes sanctions when NEA funds are used to create, produce or support a project or production which is found to be obscene or to violate child pornography laws in a criminal trial (and all appeals of the conviction are exhausted) in a state in which the project was produced or which was described in the grant application as a site for the project.

Sanctions include repayment of the NEA funds which supported the work found to violate obscenity or child pornography laws. In addition, a defendant or defendants convicted in the trial will be debarred from receiving additional NEA funding for at least three years or until the funds are repaid—whichever is longer. Failure to repay the amount due would result in permanent debarment.

The Chairperson of the NEA shall develop regulations to implement these sanctions.

Section 108

Section 108(1)(A) of the bill provides for a five year authorization of definite program appropriations for NEA, for fiscal years 1991 through 1995. It authorizes $125,800,000 for fiscal year 1991, and such funds as may be necessary for the remaining fiscal years.

Section 108(1)(B) of the bill provides for a five year authorization of definite program appropriations for NEH, for fiscal years 1991 through 1995. It authorizes $119,900,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(1)(C) of the bill strikes section 11(a)(1)(C) of the Act which provided for a one-time appropriation of funds for fiscal year 1977.

Section 108(1)(D) of the bill extends the authorization of appropriations for NEA's Treasury funds for five years. It authorizes $13,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(1)(E) of the bill extends the authorization of appropriations for NEH's Treasury funds for five years. It authorizes $12,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining years.

Section 108(1)(F) of the bill extends the authorization of appropriations for NEA's Challenge Grant Program for five years, through fiscal year 1995. It authorizes $15,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(1)(G) of the bill extends NEH's authorization of appropriations for Challenge grants for five years, through fiscal year 1995. It authorizes $15,150,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(1)(H) of the bill deletes the requirement of section 11(a)(3)(C) of the Act that if at the end of the ninth month of any fiscal year Challenge Grant funds cannot be used by one of the Endowments, that Endowment shall transfer the unused funds to the other Endowment. This provision has been in the law since 1976 when the Challenge program was first established for the two Endowments but has never been used. At the inception of this new program, there may have been the concern that Challenge grantees

might not be able to meet the 3 to 1 matching requirements which would result in some of the appropriated funds not being used during the fiscal year. However, such a concern has not been borne out. Therefore, deletion of the transfer provision is consistent with the experience of the two Endowments and the independence they have as to all other programs.

Section 108(2)(A) of the bill extends the authorization of appropriations for the administrative funds for the NEA by authorizing $21,200,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(2)(B) extends the authorization of appropriations for administrative funds for NEH by authorizing $17,950,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years. It also restricts the $35,000 cap on the use of funds for reception and representation expenses only to appropriated funds. Funds reserved by NEH from other sources, such as gifts and bequests would not be subject to the $35,000 limitation. Rising costs relating to events that we propose to make statutory, such as the Jefferson Lecture and the Frankel Prize make this change advisable.

Section 108(3) of the bill amends section 11(d) (1) and (2) of the Act to extend the authorization of appropriations for the two Endowments for five years and authorizes $195,250,000 for the National Endowment for the Arts and $165,000,000 for the National Endowment for the Humanities for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 108(4) of the bill authorizes $250,000 for the Federal Council on the Arts' initiatives in fiscal 1991, and such sums thereafter.

This section also provides that, in the event that total appropriations to the NEA exceed $175 million, $10 million is authorized for fiscal 1991 and such sums thereafter for arts education grants.

Title II: Museum Services

Section 201

Section 201(1) of the bill amends section 204(a)(1)(A) of the Act to add "conservation" to the types of resources that are to be represented by the membership of the National Museum Services Board. This addition emphasizes the importance of conservation concerns to IMS programs, the museum community and the general public.

Section 201(2) of the bill changes the annual minimum number of meetings required for the National Museum Services Board from four as stated in section 204(d)(1) of the Act to three. It conforms the authorizing legislation to actual practice, as approved annually by the Congress in appropriations acts.

Section 202

Section 202(1) of the bill removes the restriction on salary level of the IMS Director as prescribed in section 205(a)(1) of the Act. The Director's compensation level is to be provided for in Chapter 53 of title 5 of the U.S. Code by the amendment contained in section 303 of the bill.

Section 202(2) of the bill corrects a drafting error in section 205(a)(2) of the Act, which refers to the "Chairperson" rather than the "Director."

Section 203

Section 203(1) of the bill changes the reference in section 206(a)(5) of the Act to "artifacts and art objects" to "collections" to symbolize the importance of conserving all types of materials in the collections of the various types of museums supported by IMS. Museums eligible for IMS programs include, for example, zoos and botanical gardens, historic houses, and science and technology centers as well as art and other types of museums.

Section 203(2) of the bill eliminates the two restrictions on the funding of projects to strengthen museum services (section 206(b)(1), (2), (3), and (4) of the Act). First, it removes the provisions limiting funding to professional museum organizations. This change would allow IMS to fund other types of organizations which propose worthwhile projects.

Second, it removes the one-year limit on these projects (section 206(b)(2)(A) of the Act). The limit prevents extending the availability of funding in cases where a project is delayed by unexpected circumstances and prevents high quality, beneficial projects from being funded if they cannot be completed in one year. The following provision is renumbered to reflect the deletion.

Section 204

Section 204(1) of the bill extends, for five years, the authorization of appropriations for all IMS programs, as well as the authorization of appropriations to match contributions to IMS (section 209 of the Act). The bill authorizes $24,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Title III: Miscellaneous

Section 301

Section 301(1) of the bill amends section 5(b) of the Arts and Artifacts Indemnities Act, referred to as "Act" through section 301 of this section-by-section analysis, by increasing the aggregate level of insurance available for international exhibitions under the Act at any one time to $5,000,000,000. The current statutory limit is $1,200,000,000. This increase is necessary to meet the demand for coverage under the Act and to make the benefits of the Act more widely available. This increase is justified by the continuing escalation in art market values since the current limit was established. The availability of this insurance is key to staging international exhibitions. Since this program was instituted in 1975, there have been only two valid claims totaling $104,000. Based on experience under this Act, it is anticipated that this amendment will have no significant budgetary impact.

Section 301(2) of the bill amends section 5(c) of the Act by increasing the amount of insurance available for a single exhibition to $500,000,000. The current limit is $125,000,000. This increase is necessary to provide adequate coverage of international loans protected by the Act. The higher limit is a realistic accommodation for

the effects of the dramatic increase in the value of art objects since the current limit was established. Availability of this insurance is key to staging international exhibitions. Since this program was instituted in 1975 only two certified claims totaling $104,000 have been presented. Based on experience, it is anticipated that this amendment will have no significant budgetary impact.

Section 301(3) of the bill amends section 5(d) of the Act by amending the deductible amounts under indemnity agreements by adding layers of $50,000 (for exhibitions insured at $10 million but less than $125 million), $100,000 (for exhibitions insured at $125 million but less than $300 million), and $200,000 (for exhibitions insured at $300 million or more). The current statutory limits are $15,000, $25,000, and $50,000, depending upon the value of the exhibition. The sliding scale formula used to determine the current limits should be applied to the increase in the per exhibition ceiling. The deductible layers protect the U.S. Treasury from multiple claims for minor losses or damage. This amendment would actually limit the budgetary impacts or claims against the Federal government by increasing the exposure of the exhibition organizer who would be responsible for arranging for additional insurance to cover the deductible amount.

Section 302

Section 302 of the bill repeals Title IV of the Arts, Humanities, and Museums Amendments of 1985 which directed the Comptroller General to conduct a study to determine the feasibility of establishing a revolving fund comprised of payments made to the Federal government for right to use artistic and other works in the public domain with the funds to be used to supplement funding of the agencies under this Act. Work on the project was terminated after the Comptroller General's office consulted with members of Congress and determined that the study should not be pursued.

Section 303

Section 303 of the bill amends 5 U.S.C. 5315 to add the Director of the Institute of Museum Services to level IV of the Executive Schedule for compensation purposes. Section 202(1) of the bill removes the level V provision which was included on the enabling legislation. The Director's compensation level was set at level V when the agency's budget was $3 million and the Director reported to the Director of Health, Education, and Welfare. The budget and degree of responsibility have increased substantially in the last fourteen years. The budget is now $23 million and the Director reports to the President. The level IV more appropriately reflects the Director's responsibilities and role as advocate for the Nation's museums.

Section 304

Section 304 of the bill authorizes a series of regional celebrations through which Americans will see the interaction of art and democracy. These celebrations are to be multi-cultural to pay tribute to the diversity and creativity of the American artistic genius. $10 million for FY 1991 and each year thereafter is authorized for this program.

Section 305

Section 305 of the bill creates within the Design Arts Program of the NEA a "Landscape Design and Assessment" category to provide matching grants to assist States, local government, and private groups in identifying and preparing comprehensive plans to reorganize and to encourage the wise and appropriate future use of significant American landscapes.

XII. Regulatory Impact Statement

In accordance with paragraph 5(a) of rule XXIX of the Standing Rules of the Senate concerning the regulatory impact of the proposed legislation, the Committee has determined that there will be minimal increases in the regulatory burden imposed by the enactment of S. 2724.

XIII. ADDITIONAL AND MINORITY VIEWS

ADDITIONAL VIEWS OF MR. THURMOND

I believe the establishment of guidelines for the voluntary acceptance of public funds, by duly elected representatives of the people of our Country, is neither censorship nor a violation of Constitutionally guaranteed freedoms. In my opinion, it is part of our responsibility, as elected officials, to ensure that limited Federal funds are used appropriately. Until we address this matter head-on, I believe we will continue to see more and more discussion of the highly public, and sometimes controversial, matter of Federal funding of the National Endowment for the Arts.

I voted in favor of S. 2724, the NEA reauthorization legislation, as reported by the Committee because it does take positive steps to strengthen NEA accountability. However, I continue to have concerns with regard to grants given out by the National Endowment for the Arts. Last year, I supported provisions in the Interior Appropriations' bill which placed restrictions on the NEA's grant-making procedures.

I also supported an amendment offered at mark-up on September 12, 1990 by Senator Coats of Indiana. That amendment would have helped ensure that taxpayer dollars do not fund obscenity or pornographic art work. It also protected against funding materials which have the "purpose or effect of attacking primary historically religious tenets, traditions, symbols or figures." I believe these proposed provisions could serve as a reasonable check on the actions of the NEA, while also allowing funding for appropriate projects to continue. Though the amendment was defeated, I believe it is squarely responsive to the people and represents a reasonable approach to this delicate matter.

STROM THURMOND.

MINORITY VIEWS OF MR. COATS

I approach the public debate over the reauthorization of the National Endowment for the Arts as a supporter of its central mission. The highest callings of culture are not just Power, or Commerce, but Beauty as well. The Arts humanize the common day, providing enjoyment and refining insight.

The NEA has given aid to many important institutions in my state of Indiana, including the Fort Wayne Philharmonic, the Indiana Historical Society and the Indianapolis Art Museum. I have been pleased to support federal funding for such worthwhile projects which make a significant and important contribution to the cultural life of the Nation.

I believe the National Endowment for the Arts, like the National Endowment for the Humanities and the Institute of Museum Services, can and should play an important role in promoting an appreciation and understanding of the Arts in American life. So I am pleased that S. 2724, as amended, broadens panel membership to include knowledgeable members of the public, expands participation in the review process and strengthens the Endowment's role in arts education.

All this is welcome and needed. But the substitute offered by Senators Pell, Hatch et al. fails at one vital point. And that failure threatens to engulf the NEA in continued controversy and further erode the public support it enjoys.

The issue before the Congress is not the First Amendment rights of artists or the constitutionality of government censorship, but whether taxpayer money should be spent on projects which may be obscene, may promote child pornography or attack the religious beliefs of a majority of the American public. The Pell-Hatch substitute fails to adequately address this issue, in my opinion.

I have been, and remain, a friend of the Endowment. But this is precisely the reason I have been stung by the destructive abuse of their public trust by a small, unaccountable artistic elite.

I have been deeply offended by exhibitions and performances, supported with public funds, that have showcased bizarre perversions, highlighted the sexual exploitation of children and set out to purposely defile sacred religious symbols. I share the outrage felt by the vast majority of my constituents when they see their taxes spent to violate their most deeply held moral and religious convictions.

These have been, admittedly, a small percentage of grants by the NEA. But this is not an issue of economics. Americans are offended because they were intended to be offended. Their wounds were salted by contempt and blasphemy. The limited number of instances simply means the problem should be more easily solved.

Yet the Pell-Hatch substitute, though well intentioned, does not reach to the root of this difficulty. Since it provides no guidelines to

the NEA before an offensive work is displayed, its restrictions come too late. The damage is done. The Pell-Hatch substitute will allow a repetition of the funding scandals which have inflamed the public and jeopardized the Endowment. And with each new obscene, pornographic or blasphemous display, it will be more difficult to justify art funding while families, children and the elderly have more immediate needs.

The Congress, I believe, should go beyond the Pell-Hatch substitute to fashion a reasonable, workable remedy that will prevent us from being embroiled in divisive debates over the future of the NEA—even its existence. And that is exactly what I have attempted to do with my amendment to S. 2724.

Unlike the Pell-Hatch substitute which seeks restrictions after the fact, my amendment would provide guidelines to the NEA before a work is displayed. The reasonable standards I have proposed would then allow the NEA to make more thoughtful and sensitive decisions on how tax money will be spent.

I do not propose to cut off, or cut back, funding for the NEA. I am also not suggesting that funding responsibilities be turned over to the States, as some have proposed. But I am saying that the Congress should provide standards for the NEA to follow in its grant-making process, so that it will avoid awarding funds for works that are obscene, pornographic, or offensive to religion. By providing such guidelines, I do not propose that the Congress act, or compel the NEA to act, as censors. But I am convinced that since the NEA has been entrusted with taxpayer dollars, the public should demand, and the Congress should reasonably expect, that the agency will meet certain standards of responsibility in spending those funds. In fact, I do not know of a single federal grant program that does not have preconditions as to how its money is to be spent.

The Coats amendment would provide three guidelines for the NEA in awarding grants, the finding of any of which would be a legitimate basis for the denial of assistance:

First, that the average person, applying contemporary community standards, would find that the materials, taken as a whole, appeal to prurient sexual interest; the materials depict or describe, in a patently offensive way, sexual conduct, as specifically defined by applicable State law; and the materials, taken as a whole, lack serious literary, artistic, political or scientific value. This is the current legal standard of obscenity, as defined by the Supreme Court in *Miller* v. *California*.

Second, that the materials involve the sexual exploitation of minors, or employ, use, entice, or coerce any minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of the conduct. This language is based on the federal statutory prohibition against child pornography (see U.S.C. 18, Sec. 2251).

Third, that the materials have the purpose or effect of attacking primary historically religious traditions, tenets, symbols, or figures.

There is no statute or case law on blasphemy which defines the limits of federal support for works that denigrate religious beliefs, tenets or the objects of a particular religion. But I believe it is clear that the Federal government should not provide funding for activi-

ties that either promotes the establishment of religion or deliberately attacks religion. We cannot ignore the fact that the NEA has funded a number of controversial projects that have offended people of diverse religious convictions and have deliberately attacked religious traditions, tenets, symbols or figures.

Obviously the NEA, in applying the proposed guidelines, will have to consider a number of factors in deciding whether the grant proposal it reviews will meet the criteria set forth in the Coats amendment. The agency may have to consider where the work is to be created, where it is to be shown or performed, the grantee's history and prior works, the project's purpose and description, and so forth. NEA counsel may have to consult with state and local lawyers to determine local obscenity standards. The panel may even have to use some common sense in deciding what should be funded and what should not. But that should be part of the review process that the Pell-Hatch substitute seeks to reform.

My goal is simple. The Congress should require that the Endowment apply some standards when it decides how it will use public funds. My amendment would provide reasonable guidelines before those funds are used, not after the damage has been done. It makes no sense to propose, as the Pell-Hatch substitute does, that the taxpayers, to obtain satisfaction, should have to rely on someone to incur the expense of hiring an attorney and filing a lawsuit—then waiting on a final court determination that the work is obscene or pornographic. What happens during lengthy appeals? Can the grantee apply for additional funds? There is apparently nothing in the Pell-Hatch substitute to prevent the NEA from awarding more grants to the same artist to produce other objectionable works.

It has been argued that the restrictions I've outlined would violate the First Amendment rights of artists and set up the Congress as a censor. But that contention, with due respect, is simply false to the facts.

The Congress has no role as art critic. And it certainly has no role as censor. But it does have, as its primary and defining purpose, the role of determining if public funds are spent in the public interest. That is the substance of this debate—not the meaning of art or the limits of censorship, but the distribution of public funds. As an article in the Washington Post put it, "Americans make distinctions between what they will tolerate and what they will subsidize."

Opponents talk of artistic freedom. But this amendment doesn't tell anyone what to do, just whose money they can use. The issue here is not artistic freedom. It is the use of public funds. And I can muster little patience for those who imagine tht artistic freedom is identical to feeding at the public trough.

I do not deny any artist the right to create anything he wants to create on his own. I do contend that the Congress has both the right and the responsibility to set conditions and minimum standards for the use of public funds. Unfortunately the NEA has shown an unwillingness or an inability to decide appropriate uses for those funds on numerous occasions.

To call the standards I have proposed oppressive, I believe is to betray extremism. For they are simply a timid minimum—the barest of common sense restrictions.

In the conflict over the NEA we are debating whether taxpayers can be compelled to give money then used to defile the moral and religious beliefs by which they order their lives. We are debating whether public funds can be taken from men and women and then used to vandalize their values.

I believe the answer should and must be "no."

Congress, by the demands of an angry public and according to the demands of our own convictions, must put an end to federal funding for these works of deformed imagination and calloused conscience. The Pell-Hatch substitute will not do the job. As Senator Thurmond observed, the cause of federal support for the arts will not be advanced by continuing down this path.

In the absence of some standard—in the absence of responsible rules and accountability—the Endowment itself will be called into question. And we will have thrown away lightly an institution worth defending.

DAN COATS.

XIV. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

National Foundation on the Arts and the Humanities Act of 1965

* * * * * * *

DEFINITIONS

Sec. 3. As used in this subchapter—(a) * * *

* * * * * * *

(b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, *the traditional arts practiced by the diverse peoples of the United States,* and the study and application of the arts to the human environment.

* * * * * * *

(d) The term "project" means programs organized to carry out the purposes of this subchapter, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance *the widest* public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

* * * * * * *

(2) for purposes of sections 954(*l*), *7(c)(10),* and 956(h) of this title only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be, (who are present and

voting) approve of the grant or contract involving an expenditure for such purpose.

* * * * * * *

(h) The term "local arts agency" means a community organization or an agency of local government which primarily provides financial support, services, or other programs for a variety of arts organizations or individual artists.

* * * * * * *

NATIONAL ENDOWMENT FOR THE ARTS

SEC. 5. (a) ESTABLISHMENT.—

* * * * * * *

(c) PROGRAM OF CONTRACTS, GRANTS-IN-AID, OR LOANS TO GROUPS AND INDIVIDUALS FOR PROJECTS AND PRODUCTIONS; TRADITIONALLY UNDERREPRESENTED RECIPIENTS OF FINANCIAL ASSISTANCE.—

* * * * * * *

(2) projects and productions, meeting professional standards or standards of authenticity *or tradition*, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

* * * * * * *

(5) projects and productions that will encourage public knowledge, *education*, understanding, and appreciation of the arts;

* * * * * * *

(7) programs for the arts at the local level; **[**and**]**

(8) projects that enhance managerial and organizational skills and capabilities;

(9) international projects and productions in the arts; and

[(8)**]** *(10)* other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under **[**clause (8)**]** *paragraph (10)* of this subsection such publications may be supported without regard for the provisions of section 501 of Title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secetary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

* * * * * * *

(g) GRANTS TO STATES FOR PROJECTS AND PRODUCTIONS; APPLICATIONS; TERMS AND CONDITIONS OF STATE PLANS; MINIMUM ALLOTMENTS; EXCESS APPROPRIATIONS; COST LIMITATIONS; GRANTS TO REGIONAL GROUPS; NON-FEDERAL FUNDING; DEFINITIONS.—

(1) * * *

* * * * * * *

(D) provides—

(i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, *including local arts agencies,* and the public to present views and make recommendations regarding the State plan; and

* * * * * * *

(i) a description of the level of participation during [the previous 2 years] *the most recent year for which information is available* by artists, artists' organizations, *local arts agencies,* and arts organizations in projects and productions for which financial assistance is provided under this subsection;

[(ii) a description of the extent to which projects and productions receiving financial assistance under this subsection are available to all people and communities in the State; and]

(ii) for the most recent year for which information is available, a description of the extent to which projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

* * * * * * *

(*l*) PROGRAM OF CONTRACTS OR GRANTS-IN-AID TO PUBLIC AGENCIES AND PRIVATE NONPROFIT ORGANIZATIONS; LIMITATION ON PAYMENTS; AUTHORITY OF CHAIRPERSON.—

(1) * * *

* * * * * * *

(iii) support of and models for regional, statewide, or local organizations, *including local arts agencies,* to provide technical assistance to cultural organizations and institutions;

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(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in section 5(c) and section [10] *11.*

* * * * * * *

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; [and]

(F) fostering greater citizen involvement in planning the cultural development of a community[.]; *and*

(G) stimulating artistic activity and awareness that are in keeping with the varied cultural traditions of the United States.

* * * * * * *

(m) NATIONAL INFORMATION AND DATA COLLECTION SYSTEM ON THE ARTS, ARTISTS AND ART GROUPS, AND AUDIENCES; DEVELOPMENT AND IMPLEMENTATION PLAN; STATE OF THE ARTS REPORTS.—The Chairperson of the National Endowment for the Arts shall, in consultation with State and [local agencies] *local arts agencies,* relevant organizations, and relevant Federal agencies, [develop] *employ* a practical system of national information and data collection on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. [Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.] Such system shall be used, along with a summary of the data submitted with State plans under subsection (g) of this section, to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, [not later than October 1, 1988, and biennially thereafter] *not later than October 1, 1992, and quadrennially thereafter.*

* * * * * * *

(n)(1) In addition to the other authorities provided in this section the Chairperson of the National Endowment for the Arts shall make matching grants to States under paragraph (2) of this subsection for Statewide landscape assessments and to States, local governments, and private groups under paragraph (3) for individual comprehensive landscape plans. All grants under this subsection shall be on a competitive basis. No grant under this subsection shall cover more than 50 percent of the costs of any assessment or plan receiving assistance under this subsection.

(2) Each Statewide landscape assessment funded under this subsection shall systematically identify, evaluate, and comparatively assess a variety of landscape values to the public, including a detailed, comparative assessment of nationally significant natural, historic, cultural, and aesthetic values. The assessment shall be car-

ried out utilizing a task force of public and private interests representative of major landscape values and interests within the State.

(3)(A) Each comprehensive landscape plan funded under this subsection shall develop a guide for achieving desired community recommendation for future landscape management with the area subject to the plan for one or more specific landscape areas that are threatened. Each plan under this paragraph shall meet each of the following criteria:

(i) The area subject to the plan must have a recognized and definable boundary that is related to significant national or regional cultural patterns, traditional land uses, or topographic features or any combination thereof.

(ii) The area subject to the plan must contain identifiable and nationally recognized cultural, historic, aesthetic, natural, or tourism features, or a combination of these that are significant to the community and to the national citizenry.

(iii) The landscape subject to the plan must be already managed or used in ways that reflect its value as a resource and provide a clear sense of the value of the resources of the landscape.

(iv) A clear public benefit must be achieved from a cooperative effort.

(v) An organization, agency, or group of agencies or organizations must be in place, or must be established to organize and facilitate the cooperative planning effort.

(vi) There must be State and local government and public support and involvement for and in the proposal.

(viii) There must be a demonstrated need for the assistance such as a precipitating event or imminent threat in the area.

(B) Each comprehensive landscape plan funded under this subection shall include a detailed, comparative assessment of historic, cultural, and aesthetic resource values. The plan shall be carried out utilizing a task force of public and private interests representative of major landscape values and interests. The plan shall include each of the following elements:

(i) A statement of goals and policies to guide the future of the area.

(ii) An assessment of the attitudes of landowners, and local officials toward present and future uses of the landscape area.

(iii) An evaluation of the areas issues, concerns, and needs.

(iv) An identification of local, State, and Federal government and private landowner responsibilities for encouraging the wise and appropriate future uses of the area and for carrying out the plan.

(v) A public involvement plan.

(vi) A financial strategy to identify sources of revenue and assistance to help carry out the plan.

(4) The Chairperson shall submit a report to the Congress at the end of each 2-year period following the enactment of this subsection setting forth the progress being made in meeting the goals and objectives of this subsection.

(5) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

NATIONAL COUNCIL ON THE ARTS

SEC. 6. (b) * * *

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(2) so as to include practicing artists, civic cultural leaders, *local arts agency leaders,* members of the museum profession, and others who are professionally engaged in the arts; and

* * * * * * *

(f) The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this Act, and (2) review applications for financial assistance under this Act and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of an application involving $30,000 or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council; *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to sub-paragraph (A) of paragraph (1) of section [11] *12*(a).

* * * * * * *

NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 7. (a) ESTABLISHMENT.—There is established within the Foundation [a National] *the National* Endowment for the Humanities.

* * * * * * *

(c) FUNCTIONS OF THE ENDOWMENT; PUBLICATIONS; TRADITIONALLY UNDERREPRESENTED RECIPIENTS OF FINANCIAL ASSISTANCE.—The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to *enter into arrangements, including contracts, grants, loans, and other forms of assistance, to*—

* * * * * * *

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements [(including contracts, grants, loans, and other forms of assistance)] with individuals or groups to support such activities; and loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) award fellowships [and grants to institutions or individuals for training and workshops in the humanities. Fellowships] *to initiate and support training and workshops in the*

humanities by making arrangements with institutions or individuals; fellowships awarded to individuals under the authority may be for the purpose of study or research at appropriate nonprofit institutions selected by the recipient of such aid, for stated periods of time;

* * * * * * *

(7) foster[, through grants or other arrangements with groups,] education in, and public understanding and appreciation of the humanities;

(8) support the publication of scholarly works in the humanities; [and]

* * * * * * *

(9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons[.]*; and*

(10) foster programs and projects that provide access to and preserve materials important to research, education, and public understanding of the humanities.

* * * * * * *

(d) CORRELATION AND DEVELOPMENT OF ENDOWMENT PROGRAMS WITH OTHER FEDERAL AND NON-FEDERAL PROGRAMS.—The Chairperson shall [correlate] *coordinate* the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs.

* * * * * * *

(f) GRANTS-IN-AID PROGRAMS; DESIGNATION OF STATE ADMINISTRATIVE AGENCY; MATCHING FUNDS; APPLICATIONS AND PLANS; ALLOTMENTS; COST LIMITATIONS; GRANTS TO REGIONAL GROUPS; NON-FEDERAL FUNDING; DEFINITIONS; SUSPENSION OF GRANTS; SINGLE ENTITY LIMITATION.—

(1) * * *

* * * * * * *

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate [the humanities council in existence on December 20, 1985, as the State agency] *as the State agency the humanities council in existence on the date of designation*, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an appli-

cation for grants and accompany such application with a plan which the Chairperson finds—

* * * * * * *

(viii) contains—

(I) a description of the level of participation during the [previous two years] *most recent year for which information is available* by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(II) *for the most recent year for which information is available,* a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

* * * * * * *

(J) contains—

(i) a description of the level of participation during the [previous two years] *most recent year for which information is available* by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(ii) *for the most recent year for which information is available,* a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

* * * * * * *

(4) * * *

* * * * * * *

(A) [34] *35* per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) [44] *53* per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and

* * * * * * *

(g) PAYMENT OF PERFORMERS AND SUPPORTING PERSONNEL; STANDARDS, REGULATIONS, AND PROCEDURES.—It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under

working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection [not later than 180 days after December 20, 1985].

* * * * * * *

(h) PROGRAM OF CONTRACTS OR GRANTS-IN-AID TO PUBLIC AGENCIES AND PRIVATE NONPROFIT ORGANIZATIONS, LIMITATION ON PAYMENTS.—

(1) * * *

* * * * * * *

(B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section [11] *12*(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated by any fiscal year and available to the National [Endowment on] *Endowment for* the Humanities for the purpose of this subsection.

* * * * * * *

(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section [10] *11*.

* * * * * * *

(k) NATIONAL INFORMATION AND DATA COLLECTION SYSTEM ON HUMANITIES, SCHOLARS, EDUCATIONAL AND CULTURAL GROUPS, AND AUDIENCES; DEVELOPMENT AND IMPLEMENTATION PLAN; STATE OF THE HUMANITIES REPORTS.—The Chairperson of the National Endowment for the Humanities shall, in *ongoing* consultation with State and local agencies, other relevant organizations, and relevant Federal [agencies, develop] *agencies, continue to develop and employ* a practical system of national information and data collection *and public disemination of such information and data* on the humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. [Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation

regarding the need for any additional funds to be appropriated to develop and implement such system.] Such system shall be used, along with a summary of the data submitted with plans under subsection (f) of this section, to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than [October 1, 1988, and biennially thereafter] *October 1, 1992, and quadrennially thereafter.*

[(l) REPORTS AND PLANS REQUIRED BY REGULATION OR DIRECTIVE; TRANSMITTAL TO EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—[Not later than January 31, 1986, the Chairperson of the National Endowment for the Humanities shall transmit to the Equal Employment Opportunity Commission each plan and each report required under any regulation or management directive that is issued by the Commission and is in effect on December 20, 1985.]

(l) A group shall be eligible for financial assistance under this section only if—

(1) no part of the net earnings of the group inures to the benefit of any private stockholder or individual; and

(2) donations to the group are allowable as a charitable contribution under section 170(c) of the Internal Revenue Code of 1986."; and

(m) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

(1) The Jefferson Lecture in the Humanities Award to honor an individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor persons who have made outstanding contributions to the public understanding of the humanities. Up to five persons may receive the award each year. No award shall exceed $5,000.

(n) Any group receiving a grant pursuant to subsection (c) may use such grant to award a grant to carry out the purposes for which the grant was received in accordance with the provisions of this Act.

* * * * * * *

ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

SEC. 8. (a) * * *

* * * * * * *

(f) The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a rec-

ommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section [11] *12*(a).

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FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 9. (a) ESTABLISHMENT.—* * *

* * * * * * *

(b) COMPOSITION; CHAIRPERSON, DESIGNATION BY PRESIDENT; CHANGES IN MEMBERSHIP TO MEET CHANGES IN PROGRAMS OR EXECUTIVE BRANCH ORGANIZATION.—The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, [the Commissioner on Aging, a member designated by the Director of the United States Information Agency] *the Director of the United States Information Agency,* [and a member designated by the Secretary of the Interior] *the Director of the National Park Service,* a member designated by [the Chairman of the Senate Commission on Art and Antiquities] *the President Pro Tempore of the Senate,* and a member designated by the Speaker of the House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization.

* * * * * * *

[(d) STUDY OF FEDERAL SUPPORT TO MUSEUMS, IMPACT OF INSTITUTE OF MUSEUM SERVICES, AND IMPACT AND NATURE OF CONSERVATION AND PRESERVATION PROGRAMS.—The Council shall conduct a study to determine—

[(1) the nature and level of Federal support provided to museums;

[(2) the areas in which such support overlaps or is inadequate, particularly in case of emerging museums;

[(3) the impact of the Institute of Museums Services in carrying out its stated purposes; and

[(4) the impact and nature of conservation and preservation programs being carried out under this chapter and other Fed-

eral laws and the areas in which such programs overlaps or are inadequate.]

(d) The Federal Council shall conduct a study to determine the nature and level of public support for the arts in the United States at the Federal, State and local levels, including an examination of the changing roles and impacts of each level within 1 year of the date of enactment of this subsection.

ARTS EDUCATION

SEC. 10. (a) It is the purpose of this section to—

(1) encourage and develop quality arts education at all levels, in conjunction with formal systems of early childhood, elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups from early childhood through adulthood;

(2) develop and stimulate research to teach quality art education; and

(3) encourage and facilitate the work of other Federal and State agencies in the area of arts education.

(b)(1) The Chairperson of the National Endowment for the Arts is authorized to pay the Federal share of awarding grants to and entering into contracts or cooperative agreements with schools, groups and, in appropriate cases, individuals of exceptional talent engaged in or concerned with arts in education to support the activities described in subsection (c).

(2) The Federal share of grants, contracts, and cooperative agreements awarded pursuant to the provisions of this section for any fiscal year may not exceed 50 percent of the cost of the activities for which the grant is made or the contract or cooperative agreement is entered into.

(c) Funds awarded under this section may be used to encourage public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through activities that—

(1) develop partnerships between local and State arts and education agencies, businesses, colleges, and universities;

(2) assist artists and arts teachers in carrer development;

(3) support the development and promotion of improved curriculum materials in the arts;

(4) improve evaluation and assessment of arts education programs and instruction;

(5) support and encourage residencies of artists at all educational levels;

(6) support the use of technology and improved facilities and resources in arts education programs at all levels; and

(7) support other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

(d)(1) There is hereby established, within the National Endowment for the Arts, a National Arts Education Advisory Board (hereinafter referred to as the "Board").

(2)(A) The Board shall consist of fifteen members appointed by the Chairperson of the National Endowment for the Arts.

(B) The Chairperson of the National Endowment for the Arts shall appoint members to the Board who are broadly representative of the fields of arts education field, including—

(i) artists, and educators from early childhood, elementary, secondary, and postsecondary education;

(ii) representatives of arts institutions, State arts agencies and local arts agencies;

(iii) professionals from national, State, and local organizations, corporations, and foundations; and

(iv) the general public.

(C) The Chairperson of the National Endowment for the Arts shall appoint to the Board at least 2 members of the general public who are knowledgeable in arts education and not less than 1 person who is a parent of a school-aged child involved in arts education.

(D) The Chairperson of the National Endowment for the Arts shall appoint members to the Board who reflect the various geographical regions of the United States.

(E) The Chairperson of the National Endowment for the Arts shall not appoint to the Board more than 3 members from any one State.

(F) In making appointments pursuant to subparagraph (A), the Chairperson of the National Endowment for the Arts shall give consideration to the equitable representation on the Baord of women, minorities, and persons with disabilities who are involved in arts education.

(3)(A) The term of office of the members of the Board shall be 5 years, except that—

(i) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment; and

(ii) in the case of initial members of the Board—

(I) 3 members shall serve for terms of 5 years,

(II) 3 members shall serve for terms of 4 years,

(III) 3 members shall serve for terms of 3 years,

(IV) 3 members shall serve for terms of 2 years, and

(V) 3 members shall serve for terms of 1 year,

as designated by the Chairperson at the time of appointment.

(B) Any member of the Board who has been a member of the Board for more than 7 consecutive years shall thereafter be ineligible for reappointment to the Board during the 3-year period following the expiration of the last such consecutive year.

(C) Vacancies in the Board shall be filled in the same manner as the original appointment was made.

(4) The Chairperson of the Board shall be designated by the Chairperson of the National Endowment for the Arts from among the appointed members of the Board.

(5) Except as provided in paragraph (6)(B), 8 appointed members of the Board shall constitute a quorum.

(6) The Board shall meet at the call of the Chairperson of the Board, except that the Board shall meet—

(A) not less than four times each year; and

(B) whenever one-third of the appointed members request a meeting in writing, in which event seven of the appointed members shall constitute a quorum.

(7) The members of the Board shall be allowed travel expenses and other necessary expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(e) The Board, in coordination with the Chairperson of the National Endowment for the Arts, shall—

(1) initiate, expand and coordinate activities with respect to the encouragement and development of quality arts education at all levels, in conjunction with formal systems of early childhood, elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups from early childhood through adulthood;

(2) develop and stimulate research to teach quality arts education; and

(3) encourage and facilitate the work of other Federal and State agencies in the area of arts education.

ADMINISTRATIVE PROVISIONS

SEC. [10.] *11.* (a) In addition to any authorities vested in them by other provisions of this Act, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) * * *

* * * * * * *

(6) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. [529] *3324*);

* * * * * * *

(b) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation (A) without designation of the Endowment for the benefit of which such property is intended, and (B) without condition or restriction other than it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property. In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property. For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities

shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised. For the purpose of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(c) In selecting panels of experts under [clause (4)] *subsection (a)(4)* to review and make recommendations with respect to the approval of applications for financial assistance under this Act, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity, *including local arts representatives.* [Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per centum of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel.] In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel.

(d) Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 5(c), such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending.

[(b)] *(e)* The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

[(c)] *(f)* The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

[(d)] *(g)(1)* The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by

their respective Endowments under sections 5(c) and 7(c). Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in [the last sentence of subsection (a)] *subsection (d)*, as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement: "The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities.".

[(e)(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, with the cooperation of the Secretary of Education, shall conduct jointly a study of—

[(A) the state or arts eduction and humanities education, as currently taught in the public elementary and secondary schools in the United States; and

[(B) the current and future availability of qualified instructional personnel, and other factors, affecting the quality of education in the arts and humanities in such schools.

[(2) The Endowments shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Educa-

tion and Labor of the House of Representatives in the design and implementation of the study required by this subsection.

[(3) Not later than two years after the date of the enactment of the Arts, Humanities, and Museums Amendments of 1985, the Endowments shall submit to the President, the Congress, and the States a report containing—

[(A) the findings of the study under paragraph (1);

[(B) the Endowments' views of the role of the arts and humanities in elementary and secondary education;

[(C) recommendations designed to encourage making arts and humanities education available throughout elementary and secondary schools;

[(D) recommendations for the participation by the National Endowment for the Arts and the National Endowment for the Humanities in arts education and humanities education in such schools; and

[(E) an evaluation of existing policies of the National Endowment for the Arts and the National Endowment for the Humanities that expressly or inherently affect the Endowments' abilities to expand such participation.

[(f) Not later than October 1, 1987, each Endowment shall submit to the Congress a report detailing the procedures used in selecting experts for appointment to panels and the procedures applied by panels in making recommendations with respect to approval of applications for financial assistance under this Act, including procedures to avoid possible conflicts of interest which may arise in providing financial assistance under this Act.]

(h)(1) The Chairperson of the National Endowment for the Arts shall develop procedures which—

(A) ensure that each panel of experts established pursuant to subsection (a)(4) has a wide geographic, aesthetic, ethnic, minority representation by—

(i) creating an agency-wide panelist bank, containing names of both qualified arts professionals and knowledgeable lay persons that have been approved by the Chairperson of the National Endowment for the Arts, or such Chairperson's designee; and

(ii) ensuring that such panels, where feasible, have knowledgeable lay persons serving on such panels at all times;

(B) establish, where feasible, standardized panel procedures;

(C) require, where necessary and feasible, the increased use of site visitations to view, and issue a written report on, an applicant's work in order to assist the panel of experts in making recommendations;

(D) require a verbatim record of all deliberations and recommendations of each panel of experts;

(E) require that the membership of each panel of experts change substantially from year to year, with no appointment to a panel of experts to exceed three consecutive years; and

(F) require all meetings of the National Council on the Arts be open to the public in accordance with the provisions of section 552b of title 5, United States Code.

(2) The Inspector General of the National Endowment for the Arts shall conduct the appropriate reviews to ensure grantee compliance with all regulations which relate to the administration of all programs and operations of the National Endowment for the Arts. This review includes, but is not limited to, grantee compliance with all accounting and financial criteria.

(3) The procedures described in paragraph (1) shall be developed within 90 days of enactment of this subsection.

(i)(1) The Chairperson of the National Endowment for the Arts shall establish sanctions for groups or individuals who receive funds pursuant to the provisions of section 5 and use such funds to create, produce, or support a project or production which is found to be obscene under criminal laws or is found to be a criminal violation of child pornography laws, as determined by a court decision after final appeals in the State or States in which the group or individual produced such project or production or in the State or States described in the grant award as the site or sites of the project or production.

(2) Except as provided in paragraphs (3) and (4), the sanctions described in paragraph (1) shall include—

(A) repayment by the individual or organization which created or produced the project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1) to the Chairperson of the portion of the funds received under section 5 which were used to create or produce such project or production in accordance with the provisions or paragraph (3); and

(B) ineligibility of the individual or organization which—

(i) used funds received under section 5 to create or produce the project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1); and

(ii) was a defendant convicted in the criminal action described in paragraph (1);

to receive funds under this act for a period to be determined by the Chairperson of the National Endowment for the Arts, which shall not be less than 3 years from the date such project or production is found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1) or until repayment of the funds pursuant to the provisions of subparagraph (A), whichever is longer.

(3)(A) Except as provided in paragraph (4), funds required to be repaid pursuant to the provisions of this subsection shall be repaid within 90 days from the date such project or production is found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1).

(B) If a State, local, or regional agency or arts group received funds directly from the Chairperson under section 5 and awarded all or a portion of such funds to an individual or organization which used such funds to create, produce or support a project or production found to be obscene or to violate child pornography laws pursuant to the provisions of paragraph (1), and the Chairperson determines that such individual or organization is not able to repay such funds in accordance with the provisions of paragraph (2) and

this paragraph, then such agency or group shall repay such funds to the Chairperson within 30 days of the expiration of—

(i) the 90-day period described in paragraph (3); or

(ii) the waiver period described in paragraph (4).

(C) Each individual or organization required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) shall be ineligible to receive further funds under this Act until such funds are repaid.

(D) If a State, local, or regional agency or arts group is required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) or subparagraph (B) of this paragraph and fails to make such repayment in accordance with the provisions of this subsection, then such agency or group shall be ineligible to receive funds under this Act until such funds are repaid.

(4) The Chairperson of the National Endowment for the Arts may waive the provisions of paragraph (3)(A) for a period not to exceed 2 years.

(5) The Chairperson of the National Endowment for the Arts shall develop procedures to ensure compliance with the sanctions described in paragraph (1).

(6) The general information and guidance form provided to recipients of funds under section 5 shall include on such form the following:

REPAYMENT OF FUNDS AND DEBARMENT.—In accordance with a Congressional directive, recipients of funds under section 5 of the National Foundation of the Arts and the Humanities Act of 1965 are requested to note the provisions of section 10(g) of such Act regarding repayment of funds and debarment.

(7) The Chairperson shall develop regulations to implement the sanctions described in this subsection.

AUTHORIZATION OF APPROPRIATIONS

SEC. [11.] *12.* (a)(1)(A) For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts [$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g)] *$125,800,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

(B) For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities [$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990; Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f)] *$119,900,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

[(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

[(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

[(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

[(iii) $250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.]

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] *1995*, to the National Endowment for the Arts and amount equal to the sum of—

(i) the total amounts received by such Endowment under section [10] *11*(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through [paragraph (8)] *paragraph (10)* of section 5(c);

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed [$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990] *$13,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

(B) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] *1995*, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section [10] *11*(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph [9] *10* of section 7(c);

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed [$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.] *$12,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] *1995,* to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, includng the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 5(l)(1) pursuant to the authority of section [10] *11*(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for

use in carrying out activities under subparagraph (A) through subparagraph (F) of section 5(l)(1);

except that the amounts so appropriated to such Endowment shall not exceed [$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990] *$15,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

(B) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] *1995,* to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth, in section 7(h)(1) pursuant to the authority of section [10] *11*(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subpargraph (A) through subparagraph (F) of section 7(h)(1);

except that the amounts so appropriated to such Endowment shall not exceed [$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990] *$15,150,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.*

[(C) If either Chairperson determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, the Chairperson shall transfer such funds to the other Endowment for the purposes described in section 5(l)(1) or section 7(h)(1), as may be necessary.]

[(D)] *(C)* Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

* * * * * * *

(c)(1) There are authorized to be appropriated to the National Endowment for the Arts [$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990] *$21,200,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995,* to administer the provisions of this Act, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities [$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989

and 1990] *$17,950,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995*, to administer the provisions of this Act, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds [or any other source of funds] shall not exceed $35,000.

[(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

[(A) $167,060,000 for fiscal year 1986,

[(B) $170,206,400 for fiscal year 1987, and

[(C) $177,014,656 for fiscal year 1388.

[(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

[(A) $139,878,000 for fiscal year 1986,

[(B) $145,057,120 for fiscal year 1987, and

[(C) $150,859,405 for fiscal year 1988.]

(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall be $195,250,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.

(2) The total amount of appropriations to carry out the activities of the National Endowment for the Humanities shall be $165,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.

* * * * * * *

(f) For the purpose of carrying out the provisions of section 9(d), there are authorized to be appropriated $250,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter.

(g)(1) If the total amount appropriated to the National Endowment for the Arts pursuant to the authority of section 12 exceeds $175,000,000, there are authorized to be appropriated $10,000,000 for fiscal year 1991, and such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of section 10(b).

(2) Sums appropriated pursuant to the authority of paragraph (1) shall be available for obligation and expenditure until expended.

MUSEUM SERVICES ACT

(Title II of P.L. 94-462)

* * * * * * *

NATIONAL MUSEUM SERVICES BOARD

SEC. 204. (a)(1) The Board shall consist of fifteen members appointed by the President by and with the advice and consent of the Senate. Such members shall be selected from among citizens of the United States who are members of the general public and who are—

(A) broadly representative of the various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, and of the curatorial, *conservational,* educational, and cultural resources of the United States; and

* * * * * * *

(d) The Board shall meet at the call of the Chairperson, except that—

(1) it shall meet not less than [four] *three* times each year; and

* * * * * * *

DIRECTOR OF THE INSTITUTE

SEC. 205. (a)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall [be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall] perform such duties and exercise such powers as the Board may prescribe.

(2) The Director shall not delegate any of the [Chairperson's] *Director's* functions to any other officer who is not directly responsible to the Director.

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ACTIVITIES OF THE INSTITUTE

SEC. 206. (a) The Director, subject to the policy direction of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as—

* * * * * * *

(5) assisting them in conservation of [artifacts and art objects] *museum collections*;

* * * * * * *

(b)(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with [professional museum organizations] *eligible entities* to provide financial assistance to [such organizations] *such entities* in order to enable [such organizations] *such entities* to undertake projects designed to strengthen museum services *and to advance the well being of museum and conservation services*, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2)[(A) No financial assistance may be provided under this subsection for any project for a period in excess of one year.

(B)] No financial assistance may be provided under this subsection to pay for the operational expenses of any [professional museum organization] *eligible entity.*

(3) The aggregate amount of financial assistance made under this subsection to [professional museum organizations] *any eligible*

entity shall not exceed 5 percent of the amount appropriated under this Act for such fiscal year.

[(4) For purposes of this subsection, the term "professional museum organization" means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.]

(4) For the purposes of this subsection, the term "eligible entity" means a private, nonprofit professional museum or conservation-related organization, a research institution, a university, or a museum.

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AUTHORIZATION OF APPROPRIATIONS

SEC. 209. [(a) For the purpose of making grants under section 206(a) there are authorized to be appropriated $21,600,000 for fiscal year 1986, $22,464,000 for fiscal year 1987, $23,362,560 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.] *(a) For the purpose of making awards under section 206, there are authorized to be appropriated $24,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995.*

* * * * * * *

(d) For the purpose of enabling the Institute to carry out its functions under this title, [during the period beginning on the date of the enactment of this Act and ending October 1, 1990,] there is authorized to be appropriated *for each of the fiscal years 1991 through 1995* an amount equal to the amount contributed during such period to the Institute under section 207.

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ARTS AND ARTIFACTS INDEMNITY ACT

TITLE 20—UNITED STATES CODE

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INDEMNITY LIMITS

SEC. 5. (a) Approval of estimated values

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(b) MAXIMUM LIMITS OF COVERAGE.—The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed [$1,200,000,000] *$5,000,000,000* at any one time.

(c) LIMIT FOR SINGLE EXHIBITION.—No indemnity agreement for a single exhibition shall cover loss or damage in excess of [$125,000,000] *$500,000,000.*

(d) DEDUCTIBLE LIMIT.—If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) * * *

* * * * * * *

(2) more than $2,000,000 but less than $10,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; [or]

[(3) $10,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $50,000 or loss or damage to items covered.]

(3) $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;

(4) $125,000,000 but less than $300,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

(5) $300,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $200,000 of loss or damage to items covered.

ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1985

(Public Law 99-194)

* * * * * * *

[TITLE IV—ALTERNATIVE FEDERAL FUNDING OF THE ARTS AND HUMANITIES

[SEC. 401. STUDY OF ALTERNATIVE FUNDING OF THE ARTS AND THE HUMANITIES.

[(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures made from the general fund of the Treasury of the United States for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services through other Federal funding mechanisms. The study required by this section shall consider, but is not limited to, the consideration of the following funding sources:

[(A) A revolving fund comprised of payments made to the Federal Government through an extension of the existing Federal copyright period for artistic, dramatic, literary, and musical works.

[(B) A revolving fund comprised of payments made to the Federal Government for the right to use or publicly perform artistic, dramatic, literary, and muscial works in the public domain.

[(2) In carrying out the study required by this section, the Comptroller General shall frequently consult with and seek the advice of the Chairperson of the National Endowment for the Arts, the Chairperson of the National endowment for the Humanities, the Director of the Institute of Museum Services, the Register of Copyrights, the Chairman of the Labor and Human Resources Committee of the Senate, the Chairman of the Education and Labor Committee of the House of Representatives, the Chairman of the Com-

mittee on the Judiciary of the Senate, and the Chairman of the Committee on the Judiciary of the House of Representatives, concerning the scope, direction, and focus of the study.

[(3) In conducting the study required by this section, the Comptroller General shall consider the impact which the implementation of each supplemental funding mechanism would have on—

[(A) any international copyright treaties, commitments, and obligations to which the United States is a party;

[(B) public participation in the arts and the humanities;

(C) private, corporate, and foundation support for the arts and the humanities;

[(D) the overall quality of arts and the humanities in the United States;

[(E) the creative activities of individual authors and artists; and

[(F) the activities and operations of private copyrighting organizations.

[(b) REPORT.—The Comptroller General shall prepare and submit to the Congress not later than one year after the date of enactment of this Act a report of the study required by this section, together with such recommendations as the Comptroller General deems appropriate.]

TITLE 5, UNITED STATES CODE

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

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Director of the Institute of Museum Services.

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